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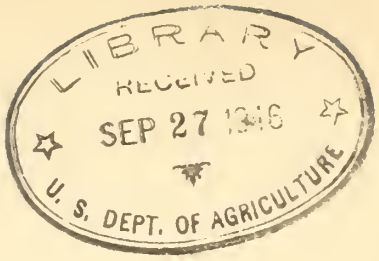

Land-Use Planning Publication No. 4a

Reprint of

AGRICULTURAL LANDLORD-TENANT RELATIONS IN ENGLAND AND WALES

by

Marshall Harris
Land Policies Unit

and

SCOTLAND'S ACTIVITY IN IMPROVING FARM TENANCY

by

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Land Policies Unit

Washington, D. C.
November 1936

The demand for these two articles, which deal with the methods used by England, Wales, and Scotland in improving their farm tenancy system, has made it necessary that we have additional copies reproduced. The two publications are combined under one cover because of their similarity in subject matter, and because of the fact that they are designed to serve closely related purposes. Only minor changes from the original issues have been made.

Part I

AGRICULTURAL LANDLORD-TENANT RELATIONS IN ENGLAND AND WALES

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Part I

AGRICULTURAL LAND-TENANT RELATIONS IN ENGLAND AND WALES 1/

by

Marshall Harris

INTRODUCTION

The American agricultural economists who have studied the English and Welsh tenancy system praise it with but few reservations, and those who have observed it in actual operation commend it highly. Their analyses indicate that it is well-adapted to those countries, and also that the American farm tenancy system could be greatly improved by the adoption of certain principles which have been developed in England and Wales. In summarizing a discussion regarding farm tenancy in England soon after the turn of the century, H. C. Taylor concluded that "the agriculture of England is, in many ways, worthy of our emulation, and that this advanced position of English agriculture is due, in a great measure to an excellent system of adjusting the relations between landlord and tenant." 2/ Several years later, after an extended visit in Great Britain studying agricultural conditions, Wilson and Wallace concluded the tenancy section of their report as follows:

> "Of the wisdom of the legislation that gives the tenant the legal right to unexhausted manures and other forms of fertility, there can be no possible question... During these travels we have been constantly impressed with the fact that the United States is traveling in the same direction in which Great Britain has gone in times past; and if we are to retain the fertility of our soil... and have a rural population on which America can depend both in war and in peace, we must adopt measures similar to those which Great Britain has adopted with success."3/

1/ Reprint from Land-Use Planning Publication No. 4, July 1936. (Division of Land Utilization, Resettlement Administration, Washington, D. C.)

The author wishes to acknowledge the assistance of Douglas F. Schepmoes, Land-Use Planning Section, in the preparation of this manuscript.

2/ Taylor, H. C. AGRICULTURAL ECONOMICS, p. 321.

3/ Wilson, James, and Wallace, Henry. AGRICULTURAL CONDITIONS IN GREAT BRITAIN AND IRELAND, p. 12.

Many other American agricultural economists have given serious consideration to certain principles and practices followed in the English and Welsh tenancy system, and have commended them to American legislators, landlords, farm managers, and tenants. 4/

The present tenancy regulations of England and Wales are an outgrowth of more than half a century of constant study and legislative activity. The English have followed the procedure of developing their tenancy law out of the successful experiences of the better landlords and tenants. In this they have pursued the policy of adjusting landlord and tenant relations by placing the tenant-operator more and more in a position similar to that of the owner-operator. Throughout these adjustments they have safeguarded the interests of the landlord, and have afforded effective protection to the natural fertility of the soil and to the improvements erected by both the landlord and the tenant.

This article, the second of a series which will explore the experience of older countries in their endeavor to improce their farm tenancy system, will present a summary of the major activities of England and Wales pertaining to farm tenancy legislation. 5/ A later Land-Use Planning publication will discuss the applicability of the principles underlying the English and Welsh legislation to American conditions and practices. In order to visualize the significance of the legislation under discussion, it is necessary to present a short discussion of the nature and extent of tenancy in England and Wales.

The data available on the ownership of land in England and Wales, prior to the last fifty years, are scarce. The Domesday record, compiled in 1085 by order of William the Conqueror, took complete account of all land, but a detailed analysis of the number and tenure of farms according to this old record has not been made. It appears, however, that all the land was held under some type of tenure very simular to that developed at the height of the feudal period. The type of land occupancy which existed subsequent to the feudal period, although not clearly determinable, was more or less similar to that of a restricted type of private ownership. By the time of the reign of Henry VI (1422-1461), "Fortescue was able to

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4/ See the writings of Gray, Black, Hibbard, Taylor, Holmes, Case Falconer, Lloyd, Johnson and others cited in the Selected References.

5/ The activities of Scotland, the first article of this series, appeared in the LAND POLICY CIRCULAR for February, 1936, p. 10, and is reprinted herein.

boast that in no country of Europe were small proprietors so numerous as in England. For many descendants of the old villeins had by this time become copyholders, and entered the ranks of the yeomanry, which now furnished the bone and sinew of the English commonalty." 6/ All evidence points to the fact that up to the time of the enclosure acts of the eighteenth century, the ownership of land was generally well distributed, and the land was owned by the occupier. Taylor found this to be true in his study of English agriculture, and presents much evidence substantiating this view.7/

The next comprehensive information which we have respecting the ownership of land in England is that of the "New Domesday Record" made by the government in 1873. The record contains many double entries and repetitions, but it has been studied and corrected by numerous students. The statistics which are generally accepted as being a good picture of the situation indicate that owner-operation had been disappearing very rapidly, and that by 1873 about two-fifths of the land in England and Wales was owned by about 1700 persons. (Statistical Supplement, Table 1). Many of these large landowners obtained original ownership of the land through the old feudal grants or through the enclosure process, and the earlier feudal experience furnished an excellent background for the development of the unregulated tenancy system which grew up subsequent to the enclosures.

The annual agricultural reports of the government, beginning in 1887 and continuing to the present day, indicate the percentage of tenancy in England and Wales from the standpoint of both the number of farms and the number of acres. There were only 13.5 percent of the farms in that year which were owned by their operators, and these operators owned 15.3 percent of the farm land. (Statistical Supplement, Tables 2 and 3). Ownership declined and tenancy increased from 1887 until after the World War. Since then, there has been a marked increase in the proportion of the farms, and also in the proportion of the farm land, which is owned by the operators. There were 88.3 percent of the farms and 87.7 percent of the land in farms rented by the operators in 1919. By 1927 these percentages had decreased to 63.4 percent and 63.9 percent, respectively.

The major factors bringing about the decrease in tenancy and the increase in owner-occupation in England and Wales may be summarized as follows: (a) the death of many heirs during the War; (b) heavy land taxes during and after the War; (c) the fear of land

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6/ Broderick, G. C. ENGLISH LAND AND ENGLISH LANDLORDS, p. 19.
7/ Taylor, H. C. DECLINE OF LANDOWNING FARMERS IN ENGLAND. See his chapter beginning on page 24.

nationalization, and the diminution of control over the land owned through legislative action; (d) inflated prices during 1919 and subsequent years which made it possible for the original owners to sell land at a high price; and (e) the desire on the part of the tenant to buy his farm.

There has also been a diminution in the total number of farms and in the total acreage of farm land since the War. In 1914 there were 435,124 farms one acre or more in size, while in 1934 there were only 384,272 farms, a decrease of almost twelve percent. (Statistical Supplement, Table 5). Furthermore, there were 27,114,004 acres of farm land in 1914 and only 25,030,494 acres in 1934, a decrease of almost eight percent. The land formerly occupied by these farms has been used for: (a) munition plants and other war purposes; (b) building sites near towns and cities; (c) increasing the number of gardens and allotments; and (d) increasing the amount of rough grazing land.

It should be pointed out that most farms in England and Wales are rented for cash as contrasted with the share-renting system which is predominant in this country. Moreover, most farms are rented on yearly tenancies, that is, from year to year. It is generally understood that such tenancies shall continue year after year unless one party gives notice that he desires the lease terminated.

The subsequent discussion is divided into the following major topics: (a) Landlord and Tenant Relations at the Middle of the Nineteenth Century; (b) Development of Statutory Regulations; and (c) Present Situation Pertaining to Landlord and Tenant Relations. The first topic will present a cross-section picture of the situation with respect to landlord and tenant relations at the middle of the nineteenth century, which will include a discussion of the rights and duties of each of the contracting parties and a description of the major inequities which accumulated under the early system. Then the development of legislation, which was designed to place the tenant-operator in a position more nearly like that of an owner-operator, will be discussed. This will include the activities of the government in (a) defining the many rights and duties of the landlord and tenant; (b) providing compulsory adherence to these rights and duties; (c) effecting adjustments which secure for the tenant farmer a relatively high degree of stability of occupancy and security of tenure; (d) setting up a procedure whereby fair and equitable rents may be determined; and (e) establishing a system of arbitration which facilitates the solution of differences between landlords and tenants. The last section will include a detailed description and analysis of the statutory provisions which regulate landlord and tenant relations at present.

Chapter I

LANDLORD AND TENANT RELATIONS AT THE MIDDLE OF THE NINETEENTH CENTURY

The landlord and tenant system which grew up during the periods when the enclosure of the common arable fields was taking place was largely individualistic and unregulated. It was, at first, based almost wholly upon the contractual relationships between the landlord and the tenant. The financial and political position of the landlord in comparison with that of the recently evicted or dispossessed tenant was not conducive to the establishment of a well-balanced tenancy system. There were very few statutes governing landlord and tenant relations during the eighteenth century or the first half of the nineteenth century. Moreover, a large proportion of those in existence were very severe on the tenant farmer. There was but little homogeneity from county to county, or even from farm to farm, as to the rights and duties of the two parties in respect to many important matters. As the tenancy system became widespread and firmly established, there began to develop customary renting practices and procedures so that landlords and tenant relations, although determined largely by the rental contract, were eventually influenced by the common law customs which grew up.

Fixtures and Emblements

According to both the common law and the customary local practices, the agricultural tenant did not have the right, on quitting the farm, to remove any of the fixtures which he had erected during his occupancy, nor did he have the right to emblements, that is, crops which he had sown but which had not been harvested. 1/ The statute which existed in regard to fixtures and emblements was not specific, and did not effectively ameliorate the common law practice. Hence, many hardships were experienced by tenants who supplied themselves with necessary fixtures and later found that on being forced to quit the farm they could not remove them.

Regarding the growing crops, however, the custom was fairly well established prior to 1850 whereby the outgoing tenant either held over after his lease had expired or returned to harvest the crops which he had sown. This custom gradually changed in some communities to a practice whereby the outgoing tenant was compensated by the incoming tenant for the value of such growing crops as

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1/ Spencer, A. J. THE AGRICULTURAL HOLDINGS ACT, 1923, p. 82.

were left on the farm. This was a noteworthy step in the development of a tenancy system which would eventually regulate landlord and tenant relations in an equitable manner. It did not, however, provide the tenant with the necessary control relative to fixtures; neither did it provide a procedure whereby the incoming tenant could reimburse the outgoing tenant for fixtures which the latter had effected.

Compensation for Improvements

The first half of the nineteenth century was a period of rapid scientific advancement in farming which necessitated many changes in farm practices and techniques. These in turn, coupled with a more competitive type of production for market, made necessary large investments of capital by individual tenant cultivators. The investments were often in the nature of fixed capital, and could seldom yield an immediate return sufficient to cover their costs, but could profitably be amortized over a period of several years. Long-time occupancy was required if the tenant-cultivator was to get the full benefit of his capital and labor before quitting the farm. Yet a large proportion of the farms was held by yearly tenancies which, according to the custom of the community, could be terminated by either party upon a six-months' notice. This method of renting was preferred by the landlord because it gave him greater control over the land, while the tenant accepted it because he could not do otherwise, and because the rent was usually lower than if the farm were leased for a longer period.

In regard to improvements effected by the tenant, when "a man improved his farm during a lease, he was obligated to pay an increased rent for it, in consequence of that improvement, when he renewed it for a second term. If he held from year to year, he either made no improvement, or, speaking generally, so little, that the difference of produce from year to year was so gradual and imperceptible that the farmer kept nearly the whole advantage to himself." 2/ Leases for a period of years being the exception, the stability of occupancy and security of tenure of a tenant farmer in England and Wales in 1850, and, therefore, his opportunity to recoup the expenses incurred in respect to improvements, depended greatly upon the character of the landlord.

In order to remedy this situation, the early experience in compensating tenants for growing crops was used as an excellent

2/ Caird, James. ENGLISH AGRICULTURE IN 1850-51, pp. 508-9.

example and a workable background for the introduction of the principle of compensating the outgoing tenant for the unexhausted value of improvements effected by him. This practice of compensating tenants for improvements grew rather rapidly during the second and third quarters of the nineteenth century. In the counties of Surrey, Sussex, the Weld of Kent, Lincoln, North Notts, and part of West Riding this custom soon became binding at law. These few counties, however, were the only ones in which the custom had the force of law, and in some counties the practice of compensating tenants for improvements did not exist at all. When compensation for improvements was practiced, it involved a payment by the incoming tenant or the landlord to the outgoing tenant for the unexhausted value of such improvements as the latter had made during his occupancy of the farm. The payment was made only when the tenant quit the farm, and for such improvements as the landlord and tenant had agreed upon in the original leasing arrangement, or at any time during the tenancy, or according to the custom in the community. At first, the improvements for which the tenant was reimbursed included only such items as increases in the fertility of the soil through the application of lime, manure, and fertilizers, and such minor improvements as fences, small temporary buildings, and changes in the water supply; but later large permanent buildings, roads, bridges, drainage systems, and the laying down of permanent or temporary pastures were included. The value of these improvements was estimated by appraisers under a system of valuation which grew up without legal direction, and which was usually based upon the cost of the improvement. Consequently, the practice of valuation varied greatly in different parts of the country. There was, in fact, no well-designed or systematic plan for arriving at the value of the improvements which the outgoing tenant had effected.

The poorly defined custom of compensating the tenant for the unexhausted improvements, even though giving him an increased security for his investment, frequently worked great hardships upon him when changing farms. "The indefiniteness of the 'custom' was also much complained of and ... Frauds were beginning to creep into the system, and landlords, for their own protection, were obliged to limit and define the custom by special agreement." 3/ Caird, in studying landlord-tenant relations at the middle of the nineteenth century in the Welds of Surrey and Sussex where the compensative custom was most commonly used, found the state of agriculture extremely backward. The production of the farms was generally below the average for the rest of the country, the tenants

3/ Caird, James. Op. Cit. p. 506.

financially embarrassed, and the landlords received their low rents irregularly. It appeared, in fact, that no one connected with farming was thriving, except the appraisers who were in constant employment settling the disputed claims of outgoing and incoming tenants. It was evident that statutory action was necessary before uniformity and equity could be established, and before the tenant farmer could be assured of an opportunity to operate his farm and conduct his business in a manner similar to that of an owner-operator.

Freedom of Cropping

One very strict principle of the English and Welsh tenancy system, which hampered the development of agriculture, was the restriction placed upon the tenant in respect to the system of cropping to be followed and the manner in which he could dispose of the produce from the farm. The usual practice was for the landlord to insert into the lease a provision specifying the system of cropping which was to be followed, and also prohibiting the removal of hay, straw, roots and grain crops. Even when the contract of tenancy did not specify the system of cropping, the custom of the community was so well established that the tenant was liable for damages if he did not follow the accepted cropping practices of the community.

The situation was the basis of much complaint even as early as the middle of the century, and many farmers were of the opinion that the future progress of agriculture rested upon the recognition of the fact that the cultivator must be given freedom of cropping, and be permitted to dispose of the produce of the farm as he deemed advisable. It was also recognized that the land and the landlord would need to be protected against exploitation on the part of the tenant.

Eviction

Another important weakness in the operation of the English and Welsh tenancy system at the middle of the nineteenth century was the shifting of the tenant-operators from farm to farm. The landlord could evict a tenant who rented from year to year by giving a six-month notice to quit, and the tenant had no recourse regardless of the unreasonableness of the eviction or the loss which he experienced. The tenant who rented for a period of years was in a similar position when his lease expired. Neither class of tenants was secure enough to make long-time plans, either in its farming

operations or with respect to its educational, religious, or social relationships in the community. Without a higher degree of stability of occupancy and security of tenure, it was impossible to establish upon the soil a verile farm population, to develop worthy rural institutions, or to maintain a permanently productive agriculture. However, the experiences of some of the more far-seeing landlords indicated clearly that the tenant farmer did a better job of farming when he felt secure in his occupancy of the farm. They were, therefore, introducing advanced ideas in regard to evictions which were to be the basis of the future legislative policy.

Rent

The tenant farmer was usually at a disadvantage in the matter of obtaining a fair and equitable rent. The land was owned largely by a few people, many of whom had an income from other sources, and who owned the land for reasons other than their interests in an income from farming. They could increase rent to the maximum, and the system even permitted them to raise the rent by virtue of the increased value of the farm resulting from improvements effected by the tenant. It was difficult, if not impossible, for the tenant to obtain an adjustment in the rent even when the crops failed or when the market price was seriously reduced. There were a few landlords, of course, who made changes in the rent when production conditions and when price changes indicated that it was equitable to do so.

Game

According to common law principles, the occupier of the land, by virtue of his possession, was entitled to kill all game on the land. He could treat anyone, even the landlord, as a trespasser if he killed the game. By a series of acts, beginning as early as 1389, these rights were gradually restricted. 4/ Finally, the Game Act of 1831 made it possible for the landlord to reserve for himself, or for some other person, the right to kill or take all game. The tenant's right to game was also restricted by what was known as "a franchise", which was a Royal Grant giving to its holder the sporting privilege over a certain tract of land. In actual operation these two restrictions practically divested the tenant of all his rights respecting game, because the landlord usually reserved the game for himself or for a sporting tenant to whom he might rent the hunting privilege. The farming tenant did not have

4/ The report of the Welsh Land Equiry Committee. WELSH LAND, p.55.

a right to kill game even when he saw it damaging his crops. Neither did he have any method whereby he could be reimbursed for the damage suffered. The 1831 Act also introduced a system of licenses and closed seasons, which assured the person having the legal right to the game greater security in that right. These provisions were carried out by gamekeepers who were appointed by the landlords.

It appeared inequitable to force the tenant farmer to accept a rental agreement under which he could neither kill game nor claim compensation for damage done by game, and many students of the problem felt that the rights which were taken from him by statute should be returned to him through the same procedure.

Chapter II

DEVELOPMENT OF STATUTORY REGULATIONS

The English and Welsh tenant at the middle of the nineteenth century, although fairly prosperous owing to general prosperity throughout England and Wales, was not in a position to develop a type of agriculture which would be permanently productive, and which would adequately support a worthy rural tenantry. As pointed out above, the tenant's position in regard to fixtures and emblements was quite precarious; he could not effect permanent or even semi-permanent improvements with an assurance that when he quit the farm he would be reimbursed therefor; he was often seriously restricted in regard to the cropping practices which he would like to follow, and in the disposal of the produce from the farm; his tenure of the farm was often unstable and insecure owing to a system which permitted the landlord to terminate the tenancy without due cause and which provided no recourse for the tenant; he often had to pay an unreasonable rent which was not adjusted even in years of droughts or greatly reduced prices, except in the few cases where the landlord saw fit; and the game laws were a source of constant irritation and loss.

There were a few landlords, however, who followed the plan of fostering better agricultural methods, and amplifying the contractual relations with their tenants. In addition, leaders in Parliament and others interested in the advancement of the country came to realize that the relations between the farm tenant and the agricultural landlord must be regulated. They also felt that a virile farm population and stable rural institutions were essential in a well-balanced national economy, and that such could not be maintained under the unregulated, highly competitive system of tenancy. Consequently, Parliament took definite steps to improve the relations between the landlords and the tenants. The change was slow at first, but, as experience paved the way, much progress was made through the concerted efforts of certain members of Parliament, some of the more far-sighted landlords, and the organized tenant farmers, all of whom attacked problems from a long-time point of view. The following discussion pictures the major statutory changes which have resulted from their untiring efforts.

Early Legislative Endeavors

The first statutory relief from the common law custom, under which the tenant's fixtures, emblements, and buildings became the

property of the landlord when the lease was terminated, was made in 1851. 1/ The Landlord and Tenant Act gave the tenant, at the termination of the lease and on quitting the farm, the right to remove buildings made by him, and such fixtures as engines and machinery. The buildings and fixtures must have been used, however, for the purpose of agriculture or for agriculture and trade, and the tenant must have received the written consent of the landlord to construct them. Before the removal of the buildings and fixtures, he must also have given the landlord one month's notice of his intention to do so. The landlord was given an opportunity to purchase the fixtures or buildings, and if he and the tenant could not agree as to their value, the arbitration method of arriving at a fair value was to be used.

Prior to the passage of the 1851 Act, the tenant, whose tenancy was terminable at the death of the landlord, or at any other uncertain time, could return to the farm and harvest the growing crops. The 1851 Act gave this class of tenant the right to remain on the farm and harvest the crop, and continue in the occupation of the farm to the end of the tenancy year.

This Act was a step in the right direction, but it was a quarter of a century later, 1875, before the first substantial effort to deal generally with the position of the tenant farmer was made. 2/ The legislative activity of that year arose out of three rather wide-spread arguments: the first of these claimed that the tenant farmer was often unjustly treated by being deprived of compensation for the unexhausted value of improvements which he had made during his tenancy; the second was that the principle of compensation, as practiced by many leading landlords, was adapted to the English and Welsh agricultural economy generally ; while the third had as its basis the fact that the tenant farmer was too often evicted without due cause. The Agricultural Holdings Act provided that the outgoing tenant should be entitled to claim compensation for improvements effected by him, upon the basis of the cost price minus a proportionate deduction for each year which had expired since the improvement was made. The improvements for which compensation was provided were divided into the three following classes: (a) permanent improvements, such as buildings and drainage, which were to be fully depreciated within twenty years; (b) semi-permanent improvements, such as chalking and liming of the soil, which were to be depreciated over a period of seven years; and (c) temporary

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1/ LANDLORD AND TENANT ACT, 1851.
2/ AGRICULTURAL HOLDINGS ACT, 1875.

improvements, such as manure and artificial fertilizers, which were presumed to remain for two years before completely exhausted. In order to claim compensation for improvements of the first class, it was necessary for the tenant to receive the landlord's consent to make them. Similarly, the tenant had to give notice to the landlord before effecting improvements of the second class, but was free to make improvements of the third class without obtaining the consent of or giving notice to the landlord. The Act was permissive, making it possible for the landlord to force the tenant to contract out of its provisions. Therefore, in practice, it was inoperative, but it effected a change in the principle of English law which was undoubtedly of considerable importance. Even if it had been compulsory, it would not have revolutionized the existing system of landlord and tenant relations, owing to many exceptions and limitations to the general principles established.

As pointed out above, the passage of this Act did not come about suddenly, nor by an inspiration of any one person. Statutory "tenant-right" had been discussed for over twenty-five years. Some students of agricultural problems claimed that the legalization of compensation for improvements by an act of Parliament was not desirable, and that the best method of protecting the capital invested by the tenant would be by a long-term lease, or that compensation should be provided in the leasing agreement through competitive bargaining between the landlord and tenant. Broderick, in consideration of this subject, said:

> "One plea often advanced in support of compulsory tenant-right must at once be dismissed as untenable. It cannot be alleged, with any justice, that by virtue of their having 'a monopoly of land', or of their superior wealth, or of their social ascendancy, the landlords have the power to force extortionate agreements upon tenants No doubt landed property is a monopoly in the sense that the surface of the soil is limited in extent...This fact constitutes a sound argument for claiming and exercising a dormant right on the part of the State to control the action of the landowners, so far as public interests may be concerned. But it does not constitute an argument for treating the whole class of English tenant-farmers, numbering some hundreds of thousands, like infants, lunatics, or persons under duress, as personally incompetent to make contracts with their landlords on equal terms. No one is compelled to hire land at all..."3/

3/ Broderick, G. C. ENGLISH LAND AND ENGLISH LANDLORDS, p. 375.

There were many persons who took the same conservative view. They thought the existing laissez-faire policy was adequate, and that freedom of contract must be preserved.

Many land nationalization societies which sprang up at that time, and many of the outstanding thinkers of the day, took a different point of view. John Stuart Mill, who had long been a student of land problems, became the president of the LAND TENURE REFORM ASSOCIATION in 1870. The principal aims of this society were: (a) to make transfers of land easy; (b) to claim for the benefit of the state the future unearned increase in the value of the land; (c) to encourage cooperative agriculture; (d) to encourage the purchase of land by the state for the purpose of renting it to small cultivators; and (e) to retain for national use all land classified as waste. 4/ During the third quarter of the nineteenth century there were many other writers who discussed the problem of land ownership and tenancy, and many schemes for the solution of the pressing problems of landlordism were presented. These schemes ranged all the way from virtual confiscation to government purchase. It was argued that the nation should cancel the social contract of private property in land and reassert its right to the land. Another plan called for the taxing of all land to the full extent of the value arising from the land. A third scheme declared that the value of the land may be divided into three parts: (a) the value inherent in the soil; (b) the value created by improvements made by man; and (c) the "contingent value". Under this scheme the landlord would be entitled to the rent arising from the improved value of all the land which he holds, and he should return to the state all the rent which accrues from the original and the contingent values. The general procedure fostered by the land nationalization societies was for the government to make some pretense of purchasing the land, under compulsory power, rather than confiscate it, and should then collect rent from the person who uses the land. The user of the land would be guaranteed security of tenure, the right to any improvement which he might make, and the right to sublet.

Parliament was naturally aroused by the widespread land tenure reform movement, and by the failure of the 1875 Act to attain the desired results. Disraeli's administration appointed a commission to study agricultural conditions and make recommendations for reform. This commission, known as the Richmond Commission, reported

4/ Orwin, C. S. and Peel, W. R. THE TENURE OF AGRICULTURAL LAND, pp. 33-34.

in 1882. The future legislative program was based largely upon the information contained in its report and the recommendations made by it. There were other factors, however, influencing the actions of Parliament at that time. The Land Enquiry Committee reported that the "writer and legislators who lived during the first half of the nineteenth century believed that national interests were best secured by not interfering with the free bargaining as between workman and employers, tenant and landowner. The logic of necessity drove Parliament to interfere first of all with the relationships between workman and employer. It was realized that the employee, faced with the alternative of taking a job or starving . was not a free agent, and a long series of Acts were passed regulating hours, factory conditions, and, in some cases, wages as well." 5/ The legal powers which were possessed by the landowner during that time were extensive, but by the second half of the nineteenth century a marked change in public opinion had taken place, and it "was recognized that the community as a whole had a right to safeguard its own interests." 6/ Many statesmen deemed it wise to regulate the landlord and tenant in a manner similar to the statutory safeguards provided in the case of the workman and employer. Thus, the Agricultural Holdings Act of 1883, which took the place of the earlier Act, had as its immediate foundation the Report of the Richmond Commission, while the general attitude of society in regard to such matters formed a more fundamental basis for action of this general character.

Compensation for Improvements Made Compulsory

The Agricultural Holdings Act of 1883 differed from the earlier Act in two important particulars. 7/ First, it was compulsory rather than permissive. This made it possible for the tenant, on quitting the farm, to claim compensation for the unexhausted value of the improvements which he had effected, provisions in the contract to the contrary notwithstanding; thus eliminating the possibility of the landlord's forcing the tenant to dispense with his compensation privilege, and also making it necessary for the tenant to bargain with the landlord in respect to the making of many improvements. The second new feature provided that the amount of payment for the unexhausted improvement should be its value to an incoming

5/ The Report of the Land Enquiry Committee. Op. Cit. p. 362.
6/ Ibid.
7/ AGRICULTURAL HOLDINGS ACT, 1883.

tenant, rather than its cost less depreciation. This was a great improvement in the principles which had been followed in determining the compensation which the outgoing tenant should receive. It served to protect the landlord and incoming tenant against an outgoing tenant who was not prudent, either in the type of improvement effected or in the purchasing of material and in construction costs. It should be noted that the statute used the terminology "an incoming tenant" and not the incoming tenant. Thus, the value of the improvement was to be based upon its suitability to the type of farming which would normally be carried on, without regard to who was going to occupy the farm or how he intended to use it.

In general, the classification of improvements, and the granting of permission or the giving of notice in connection with the making of improvements, followed the same principles as those outlined in the 1875 Act. The list of improvements for which compensation was payable, which is presented below in Table 1, was again divided into three categories, with similar restricting provisions. The 1883 Act did not, however, set up a standard for depreciating the improvement as was done in the 1875 Act. Such was neither necessary nor applicable to the new system for determining the amount of compensation. The landlord and tenant could agree as to the amount of compensation, or in case they could not agree, the amount of the compensation was to be determined by "reference." The Act provided that the landlord and tenant could agree as to a single referee who could proceed with the reference, or in case they could not agree as to a single referee, each could select a referee and these two could select an unpire, and the three proceed with the reference. The decision of these three, when legally made, was to be binding on the landlord and tenant.

Table 1 - Improvements For Which Compensation Was Payable According to the English and Welsh Agricultural Holdings Act of 1883 8/

Part I

IMPROVEMENTS TO WHICH CONSENT OF LANDLORD IS REQUIRED

(1) Erection or enlargement of buildings
(2) Formation of silos
(3) Laying down of permanent pasture
(4) Making and planting of osier beds

8/ AGRICULTURAL HOLDINGS ACT, 1883.

(5) Making of water meadows or works of irrigation
(6) Making of gardens
(7) Making or improving of roads or bridges
(8) Making or improving of water courses, ponds, wells, or reservoirs, or of works for the application of water power or for supply of water for agricultural or domestic purposes
(9) Making of fences
(10) Planting of hops
(11) Planting of orchards or fruit bushes
(12) Reclaiming of waste land
(13) Warping of land
(14) Embankment and sluices against floods

Part II

IMPROVEMENT IN RESPECT OF WHICH NOTICE TO LANDLORD IS REQUIRED

(15) Drainage

Part III

IMPROVEMENTS TO WHICH CONSENT OF LANDLORD IS NOT REQUIRED

(16) Boning of land with undissolved bones
(17) Chalking of land
(18) Clay-burning
(19) Claying of land
(20) Liming of land
(21) Marling of land
(22) Application to land of purchased artificial or other purchased manure
(23) Consumption on the holding by cattle, sheep, or pigs of cake or other feeding stuff not produced on the holding

One very serious omission in the Agricultural Holdings Act of 1883 was that it did not provide compulsory compensation in case a mortgagee took possession of the farm. The rules in force, with few exceptions, gave the mortgagee in possession the right to evict, without notice, a tenant of the mortgagor whose tenancy had been created without the consent of the mortgagee after the date of the mortgage. The mortgagee could also appropriate the tenant's improvements, growing crops, and fixtures, on the basis of a legal theory which held that the mortgagor could not grant a legal lease on the property, owing to that fact that his right in the property consisted only of the equity of redemption, and was, therefore, an

equitable estate and not a legal estate. Therefore, no contract existed between the mortgagee and the tenant, and the tenant could be considered as a trespasser. The Tenant's Compensation Act of 1890 gave the tenant of a farm a legal claim to compensation from a mortgagee, and provided that the mortgagee could evict only after six months' notice in writing. The mortgagee in possession was to assume the same position as the mortgagor in regard to compensation under the 1883 Act.

Another omission of the 1883 Act was that it did not contain adequate compensation provisions in respect to farms operated as market gardens, that is, farms used chiefly for the commercial production of fruits and vegetables. In the first place, it did not provide compensation for several types of improvements which are commonly found on market garden farms. Further, some improvements, for which compensation was provided, were classified in Part I - - this is, the category for which the landlord's written consent was necessary before the tenant could effect them and claim compensation therefor, when they should have been classified in Part III--that is, in the category which the tenant could effect without the landlord's written consent and even without giving notice to him. The Market Gardeners' Compensation Act of 1895 remedied these two situations. In respect to a farm operated as a market garden, it eliminated from the category of improvements, for which the landlord's written consent was necessary before construction, the following items: (a) erection or enlargement of buildings; (b) making of gardens; and (c) planting of orchards or fruit bushes. 9/ The following items were added to the third category of improvements, that is, those which the tenant could effect without the consent of or notice to the landlord: (a) planting of standard or other fruit trees permanently set out; (b) planting of fruit bushes permanently set out; (c) planting of strawberry plants; (d) planting of asparagus and other vegetable crops; and (e) erection or enlargement of buildings for the purposes of the trade or business of a market gardener. 10/

As the advantages of the new legislation regulating landlord and tenant relations became evident, there was a demand for an extension of the scope of the legislation. There were also several parts of the statutes which were not entirely clear, and which caused some difficulties in actual operation. The Agricultural Holdings Act of 1900 was enacted to bring about these needed

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9/ MARKET GARDENERS' COMPENSATION ACT, 1895, Section 3(2).
10/ Ibid. Section 3(3).

changes. It clarified the meaning of the improvements to which the Acts applied; the method whereby the benefits given or allowed the tenant by the landlord for improvements effected by him should be offset against claims for compensation made by the tenant; and the methods used in evaluating manures. These clarifications did not involve significant changes in fundamentals, and need not be detailed at this time.

The Act added the two following improvements to the list which the tenant could make without the written consent of and without notice to the landlord: (a) "Consumption on the holding by cattle, sheep, or pigs, or by horses other than those regularly employed on the holdings, of corn proved by satisfactory evidence to have been produced and consumed on the holding"; and (b) "Laying down temporary pasture with clover, grass, lucerne, sainfoin, or other seeds, sown more than two years prior to the termination of the tenancy." 11/ It further extended the rights of the tenant by providing that he could claim compensation under custom, agreement, or otherwise, in lieu of compensation claimed under the Act. 12/ This was substituted for the provision in the 1883 Act which provided that the tenant should not be entitled to claim compensation, in respect to improvement to which the Act applied, otherwise than as provided in the Act. The 1900 Act limited the extent to which "penal rents" or "liquidated damages" were recoverable by the landlord. 13/ It also gave the landlord or any person authorized by him the right to enter the farm at any reasonable time to view its condition.

Another rather important change effected by the 1900 Act concerned the method of determining the amount of compensation in case the landlord and tenant could not agree. In such cases, according to the 1883 Act, the difference was to be settled by "reference." A reference could consist of one referee agreed upon by the landlord and tenant, or, in case they could not agree upon a single referee, it could consist of two referees, one appointed by each party, and an umpire agreed upon by the two referees. The 1900 Act provided that unless the landlord and tenant agreed otherwise, the difference should be settled by arbitration before a single arbitrator. It further provided a definite procedure regarding the arbitration, both in case of arbitration before a single arbitrator and also before two arbitrators and an umpire. The arbitration procedure

11/ AGRICULTURAL HOLDINGS ACT, 1900. First Schedule, Part III, Sections 25 and 26.
12/ Ibid. Section 1 (5).
13/ See Section on penal rents, p. 39.

prescribed by the Act is very similar to the procedure set forth in the Second Schedule of the Agricultural Holdings Act of 1923.14/

Introduction of Compensation for Disturbance and Damage by Game and Freedom of Cropping

Even though compulsory compensation for the unexhausted value of improvements effected by the tenant had become firmly established at the beginning of the twentieth century, and was proving highly satisfactory, the English and Welsh statutes did not include an effective method of preventing unreasonable termination of farm leases. There was still a large amount of moving from farm to farm, and moreover, many leases were terminated without due cause. Consequently, tenants were often hampered in effectively organizing their farms, and in making long-time plans. The inequities of the law respecting the right to kill game, even though ameliorated to a certain degree, were still a source of trouble. Also, very little change had been made in the restrictions placed upon the tenant as to the cropping system which was to be followed and the method of disposing of the produce of the farm. These three problems had been discussed for many years and various suggestions had been made by which they might be solved. It was not until 1906, however, that they became the object of legislative action. The Agricultural Holdings Act of that year provided that under specific circumstances the tenant farmer could claim statutory compensation when his lease was terminated, that he could also claim compensation for damages which game caused to his crops, and that he could, under certain restrictions, follow any system of farming he felt was best adapted to his farm. It also contained several minor changes of some importance.

The Act provided that in the following situations the landlord shall pay the tenant, as compensation for disturbance, such sum as represented the loss or cost to the tenant of quitting the farm: (a) where the landlord "without good and sufficient cause, and for reasons inconsistent with good estate management" terminates a tenancy; (b) where the landlord refuses to grant a renewal of a tenancy; and (c) where the landlord demands an increase in rent by reason of improvements effected by the tenant and as a result thereof the tenant quits the farm. 15/ Thus Parliament took an important step in providing for the tenant farmer a high degree of stability of occupancy, and in laying the foundation for a system

14/ See p. 45.
15/ AGRICULTURAL HOLDINGS ACT, 1906, Section 4.

of rent adjustment. In actual practice this provision was not, at first, as effective as was anticipated. This was due in a marked degree to the uncertainty of what was included in the concept of "without good and sufficient cause, and for reasons inconsistent with good estate management." Later operation has proved, however, that only a short experience was necessary to develop a well-defined understanding of what should be included in the above concept. This innovation has been clarified and amplified in later Acts, and is now an important part of the law regulating landlord and tenant relations. The English point of view, several years after the introduction of this principle, as explained by Lord Clinton, a large landowner, is significant in this connection. In speaking on the subject he expressed the opinion that it gave "a tenant from year to year an implied right to remain on his farm for a longer period, or to receive compensation in lieu of that right. This is undoubtedly a blow at the free exercise of the rights of property; but in the present day, we have grown accustomed to the idea that private rights are not absolute, except in a limited sense; but are always to be exercised in relation to the wider interest of the state or community." 16/

Prior to 1906 the tenant was compelled, by contract and custom, to operate the farm according to a definite system of cropping, and was prohibited from selling or removing from the farm hay, straw, roots, or green crops. This control over the farm was asserted by the landlord in order to maintain the fertility of the soil and to afford a protection to the farm against deterioration and damage. The 1906 Act gave the tenant the right to follow any system of cropping the arable land and disposing of the produce of the farm he deemed best, except during the last year of the tenancy, notwithstanding any custom of the country or provision of the contract to the contrary. 17/

The 1906 Act also gave the tenant the right to claim compensation for damage to his crops caused by game which he was not permitted to kill. 18/ Even though the Ground Game Act of 1880 gave the tenant the right to kill hares and rabbits, he still did not possess the right to kill such game as deer, pheasants and par-

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16/ Lord Clinton. THE POSITION OF THE AGRICULTURAL OWNER AS EFFECTED BY THE AGRICULTURAL ACT, 1920. Special Report of the Central Association of Agricultural and Tenant-Right Valuers. 1921, p. 8.

17/ AGRICULTURAL HOLDINGS ACT, 1906, Section 3.

18/ Ibid.

tridges, and, as England was a sport-loving nation, it was thought better to give the tenant-cultivator compensation for damage by game rather than give him the right to kill such game.

The minor changes effected by the Agricultural Holdings Act of 1906 included (a) the requirement that all arbitration under the Act be preferred before a single arbitrator in lieu of the dual system permissible in the 1900 Act; 19/ (b) a provision whereby the tenant could execute any repairs to buildings necessary for the proper cultivation or working of the farm, when the landlord failed to execute them within a reasonable time after having been given a written notice; 20/ and (c) a method whereby either party could obtain a record of the condition of the farm. 21/

Five separate Acts, which dealt with agricultural landlord and tenant relations, had been enacted during a period of slightly more than two decades. The interrelations between these Acts were not always clear, and Parliament felt that they should be clarified by consolidating all their provisions into one Act. To this end they passed the Agricultural Holdings Act of 1908, and incorporated in it the Agricultural Holdings Acts of 1883, 1900, and 1906, and certain sections of the Tenants' Compensation Act of 1890 and the Market Gardeners' Compensation Act of 1895. There were no new principles introduced by this Act.

The Agricultural Holdings Act of 1908 was modified in two particulars before Parliament's attention was attracted by matters pertaining to the World War. The Agricultural Holdings Act, enacted in 1913, placed market gardeners holding their farms on a tenancy from year to year on a similar basis as other market gardeners. This made it possible for them to claim compensation for the special list of improvements which pertained only to market gardens. The 1908 Act had restricted the improvements for which they could claim compensation to those applicable to all farms. The Agricultural Holdings Act of the following year eliminated one of the principal objections to the operation of the provision regarding compensation for disturbance. The courts had held that the removal of a tenant in case the farm was sold was a "good and sufficient cause", and was not "inconsistent with good estate management." This decision had considerably reduced the effectiveness of the disturbance provision in the 1908 Act, and the

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19/ Op. Cit. Section 1 (2).
20/ Ibid. Section 6.
21/ Ibid. Section 7.

Agricultural Holdings Act of 1914 provided that the tenant could not be given notice to quit in case the farm were sold without the landlord's being liable for compensation for disturbance.

Land tenure problems were brought to the attention of Parliament immediately following the War, and although the Ministry of Agriculture and Fisheries Act of 1919 was not one of those pertaining exclusively to agricultural holdings, it contained one provision which was of importance. It provided for the establishment of county agricultural committees which were to act as a county agricultural parliament with the powers to exercise many of the functions of the Ministry of Agriculture and Fisheries. The Act specified that these committees perform two functions with reference to the Agricultural Holdings Acts. They were required, on request of the landlord, either to issue or to refuse a certificate that the tenant was not cultivating the farm according to the rules of good husbandry, and they could, on application of the tenant, determine what part of a farm, if any, could be treated as a market garden in respect to the provisions of the Agricultural Holdings Acts. 22/

During the following year Parliament again enacted legislation with reference to the agricultural landlord and tenant. The tenant's demand for stability of occupancy and security of tenure was not yet satisfied. The Agricultural Act of 1920 had as one of its major objectives the final solution of that problem. It, therefore, defined with greater precision the conditions under which the tenant might claim compensation for disturbance, and set the minimum payment for compensation for disturbance as one year's rent, or if a larger cost or loss was experienced, the amount could be increased up to, but never above, two years' rent.

The 1920 Act completed the step taken in the 1906 Act with respect to adjustment of rent. Whereas the 1906 Act provided that the landlord could not increase the tenant's rent as a consequence of improvements effected by him, the 1920 Act introduced the concept of arbitration as to the amount of rent payable by the tenant. According to the Act, the tenant could demand arbitration as to the amount of rent which he should pay for the farm, and if the landlord refused, the tenant could quit the farm and claim compensation for disturbance in the same manner as if the landlord

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22/ For a detailed discussion of these two subjects, see later section of this chapter.

gave notice to quit. Although this does not provide compulsory rent arbitration, it has, in actual operation, proved an effective method whereby a fair and equitable rent can be determined in respect to rented farms.

Another peculiarly significant provision of this Act gave the Minister of Agriculture and Fisheries, after consultation with the agricultural committee, the power to appoint a manager to administer a landlord's estate when it was necessary or desirable in the national interest to do so, and where the estate was grossly mismanaged "to such an extent as to prejudice materially the production of food thereon or the welfare of those who are engaged in the cultivation of the estate." This provision was repealed before the Minister had exercised his right in respect to any case to which it applied. It is significant, however, as an indication of the trend of thought with respect to land tenure arrangements in England and Wales.

The 1920 Act also introduced compensation for high quality farming. It provided that where the tenant could prove to the arbitrator that the value of the farm to an incoming tenant was increased by virtue of the continuous adoption of a system of farming superior to the system required by the contract of tenancy, the tenant should be awarded such compensation as represented the increased value to an incoming tenant. Prior to the inclusion of this provision in the Act, the improvements, for which the tenant could claim compensation under the Act, were restricted to those specified in the Schedule of Improvements, and no improvements could be claimed under the Act, except those mentioned, regardless of how much such improvement may have increased the value of the farm to an incoming tenant.

Chapter III

PRESENT SITUATION PERTAINING TO LANDLORD-TENANT RELATIONS

It has been shown above that at one time England and Wales was a land of owner-operated farms, and that during the latter part of the eighteenth century and the first part of the nineteenth century the land fell into the hands of a few landlords; also, that during this time there developed an unregulated system of tenancy. This system soon became ill-adapted to the exigencies of agricultural development, and was greatly improved, if not completely changed, by the development of statutory regulations. The last major piece of legislation regulating the relations of the agricultural landlord and tenant was passed in 1923, 1/ and brought together the major principles of tenancy legislation that had been developed during the preceding half-century. The following discussion will describe in detail the provisions and amendments of that Act. 2/

The Agricultural Holdings Act of 1923, which is the basis of present landlord and tenant law in England and Wales, provides for compensation for (a) improvements; (b) high quality farming; (c) deterioration and waste; (d) disturbance; and (e) damage by game. It contains special compensation provisions with reference to market gardens. It also contains regulations pertaining to (a) crop rotation and disposal of produce; (b) fixtures and emblements; (c) rent adjustment and regulation; (d) the financial responsibility of the landlord and tenant; (e) the right of the landlord to enter the farm; (f) notices to quit; (g) record of the condition of the farm; and (h) arbitration of differences between landlords and tenants. These provisions and regulations will be discussed in the order mentioned. Before they are considered, however, there are several important topics pertaining to all phases of the Act which should be reviewed.

The Act applies to any parcel of land, however small, which is held by a tenant, and which is used either wholly or in part for agriculture or pasture, or as a market garden. All types of tenant-

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1/ AGRICULTURAL HOLDINGS ACT, 1923.

2/ The numerous acts pertaining to allotments and allotment gardens will not be discussed in the paper. The general principles of compensation which are included in these Acts are practically the same as those of the AGRICULTURAL HOLDINGS ACT of 1923.

operated farms are included under the Act and are regulated by the same provisions, except market gardens which are accorded special privileges to be discussed later. When the question arises, which is quite infrequent, as to whether or not a particular farm or garden comes under the provisions of the Act, it is a matter of fact, and must be decided by an arbitrator in light of the conditions existing in reference to the particular case. The Act provides that a parcel of land is held by a tenant when he, or any person deriving title from him, has a contract of tenancy for a term of years, either definite or indefinite, or from year to year. The landlord, according to the provisions of the Act, means any person who for the time being is entitled to receive the rents and profits from the piece of land. This includes, in addition to the common type of landlord, a mortgagee in possession, a tenant who sublets, and a fiscal representative of the Crown or of any public body.

In contrast with the ineffective Act of 1875, the 1923 Act makes it impossible for a tenant to contract out of his right to claim compensation by declaring void that part of any contract of tenancy which either limits or takes away such a right. 3/ It is possible, however, that compensation for improvements may be provided for in a contract of tenancy or in a supplemental agreement and that such compensation may be substituted for that provided for in the Act. The conditions under which this is possible are specifically defined in the Act so as to protect the interest of the tenant.

Besides being able to claim compensation under the Act, and on the basis of the contract of tenancy or by some supplemental agreement, the tenant may also claim compensation by virtue of the customs of the community. He may, furthermore, claim compensation under all three, insofar as they do not overlap. Thus, a tenant may claim compensation for preparing the land for next year's crops and for young seeding under the custom of the community; he may claim compensation for landscaping according to the contract of tenancy or a supplemental agreement, (neither of these improvements are provided for in the First Schedule of the Act) and he may

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3/ Section 50. A mimeographed copy of the AGRICULTURAL HOLDINGS ACT of 1923 and the amendments of 1923 and 1934 may be obtained from the Land Use Planning Section, Land Utilization Division, Resettlement Administration, Washington, D. C.

claim compensation for liming the land as provided for in the Third Part of the First Schedule of the Act.

Compensation for Improvements

The improvements for which the tenant may claim statutory compensation for the unexhausted value thereof are specifically set forth in the First Schedule of the Act. 4/ The Schedule is divided into three parts. Part I includes those improvements which are of a more or less permanent nature, and which are not readily exhausted; drainage is the only improvement dealt with in Part II; while Part III lists those improvements which are of a temporary nature, and which are rather easily exhausted.

Before the tenant may claim compensation from his landlord under the Act, for the unexhausted value of any improvement included in the First Schedule of the Act, the tenancy must have terminated and the tenant must have quit the farm. Both of these conditions must exist. This prevents the tenant from claiming compensation for improvements at the end of a tenancy while he still remains on the farm under a new contract. It also definitely fixes the person liable to the tenant, that is, the person who, for the time being is entitled to receive the rent from the farm, so that the tenant does not have to look to the landlord who held the property at the time each specific improvement was effected.

Improvements Requiring Consent of Landlord. The improvements specified in Part I include such items as buildings, silos, permanent pasture, roads, bridges, permanent fences, orchards, water supply, removing obstructions to cultivation, and works of irrigation. The tenant cannot, under the Act, claim compensation for the unexhausted value of such improvements unless, prior to their execution, he has obtained the written consent of the landlord or his agent. In requesting the consent of the landlord, the tenant should, and usually is required to, specify the nature and extent of the improvement. The landlord may give his consent unconditionally or upon such terms as he and the tenant may agree. When the consent is given unconditionally, the tenant may claim as compensation the value of the improvement to an incoming tenant. When the consent is given conditionally, the tenant and the landlord may agree as to the nature of the improvement and the amount of compen-

4/ For First Schedule of the ACT, see Statistical Supplement, Table 8.

sation. The compensation need not be cash, but may be some other tangible benefit. 5/

When the landlord and the tenant agree as to the amount of compensation, such amount is to be substituted for the compensation arrived at under the provisions of the Act. In such cases the question cannot be raised later as to whether or not the compensation was reasonable or just, but it has to be evident that some compensation or benefit was received by the tenant from the landlord for the improvement which was effected.

The tenant has no way, under the Act, of compelling the landlord either to make the improvement or to agree to terms whereby the tenant may effect the improvement. Thus, apparently this part of the Act does not change the condition which exists under landlord and tenant relations in this country; to wit, they may agree upon terms by which the improvement is effected, the landlord may make the improvement himself, the improvement which was requested by the tenant may not be made, or the tenant may make the improvement and either take it with him when he quits the farm or leave it on the farm receiving no compensation therefor. This part of the Act does, however, provide a definite principle for determining the value of an improvement which the landlord agrees that the tenant should make. It declares void any contract providing that the tenant shall make certain improvements without compensation, and, in addition, has developed a greater uniformity in landlord-tenant relations throughout both countries.

Even though the tenant may not be able to obtain the landlord's consent to the making of an improvement, and consequently is unable to claim compensation therefor, or may not be able to claim compensation under the custom of the community, he may be entitled, under another provision in the Act, to take the improvement with him when he quits the farm, or he may receive payment for it as a tenant's fixture. 6/

Improvements Requiring Notice to Landlord. Drainage is the only improvement included in Part II of the First Schedule of the Act. Since the Act does not specify any particular kind of drainage, this section has been interpreted, throughout England and Wales, to mean that the tenant may effect any work which has as its object the freeing of the soil from water.

5/ Section 2.

6/ For a discussion of tenant's fixtures, see p. 40.

Before the tenant can claim compensation for drainage, he must give the landlord a written notice "not more than three nor less than two months before beginning to execute the improvement." 7/ The notice must specify the manner in which the tenant intends to do the work. Even though it is not required by the Act, the notice should give particulars as to the fields to be drained, the kind and size of drains, and other detailed matters which will give the landlord an accurate concept of the proposed improvement.8/ It is possible, under the Act, to dispense with the notice, and the landlord and tenant agree as to the nature of the improvement, the time it is to be made, and the amount of compensation payable. Agreements of this type are valid and shall be substituted for the privileges which are specified in the Act, provided they are not in contravention therewith. 9/ When the landlord and tenant, after the notice has been given, agree as to the compensation, the compensation shall be substituted for that payable under the Act. As explained under Part I they cannot agree that no compensation shall be payable; neither can the arbitrator, who may be asked to settle the claim, inquire as to whether or not the compensation agreed upon is fair and just. 10/

After a lapse of two months but before three months have passed, if the tenant has not received notice that the landlord intends to make the improvement, or if he and the landlord have not reached an agreement as to the improvement, the tenant may then begin the work. The compensation for the improvement will be awarded when the tenancy is terminated, and when the tenant quits the farm. The amount shall be based upon the value of the drainage to an incoming tenant, or it shall be the amount as originally agreed upon.

When the landlord decides to do the drainage work, he must either begin the work within two months or give the tenant notice of his intention to do the work, unless the tenant withdraws his notice. He must execute the work in a "reasonable and proper manner" and within a "reasonable time." The "reasonable and proper manner" and "reasonable time" are questions of fact, and are determinable upon the merits of each particular case. When the landlord executes the work, he is, according to the act, entitled

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7/ Section 3 (1).
8/ Davies, Clement E. AGRICULTURAL HOLDINGS AND TENANT RIGHT, p. 49.
9/ Section 3 (4).
10/ Section 3 (2).

to "recover from the tenant as rent a sum not exceeding five percent per annum on the outlay incurred, or not exceeding such annual sum payable for a period of twenty-five years as will repay that outlay in that period, with interest at the rate of three percent per annum." 11/ The Act further provides that the Minister of Agriculture and Fisheries may change these percentages and the period as he thinks fit, having due regard for current interest rates. The Minister has changed the percentages four times since 1920. He increased them in 1921 and effected three successive decreases in 1922, 1923, and 1933.

Improvements Neither Requiring Consent of Nor Notice to Landlord. The improvements which are listed in the last part of the First Schedule of the Act are unlike those of the first two parts in that they deal chiefly with those works which are more readily exhaustible. The relation between the landlord and tenant in regard to these three classes of improvements presents another significant difference between them, and one which is exceptionally important in actual practice. In order to receive compensation for improvements included in Part III, at the termination of the lease and on quitting the farm, except for repairing buildings, the tenant must neither obtain the written consent of the landlord nor give him notice in writing before he makes the improvements, as was necessary in regard to improvements comprising Part I and Part II, respectively. He is totally free of any legal restraint on the part of the land, and he can go about effecting such improvements with the assurance that he will receive a sum equal to their value to an incoming tenant at the termination of the lease and on quitting the farm.

The improvements which are listed in Part III may be conveniently divided into three classifications as follows: (a) those which improve the soil by adding fertility directly thereto; (b) the laying down of temporary pasture; and (c) the making of repairs to buildings. The addition of fertility to the soil includes such items as lime, commercial fertilizers, purchased manure, manure produced from purchased feedstuff, and manure produced from feedstuff grown on the farm. Even though the Act does not require that bills, vouchers, farm production records, farm sales records, and other documentary evidence be kept, it has proved advisable to have them in order to facilitate valuation of these improvements. In evaluating the compensation for the temporary pasture laid down, the value of the temporary pasture at the commencement of the

11/ Section 3 (3).

tenancy must be deducted from the value of the temporary pasture at the end of the tenancy. 12/ The tenant must give written notice to the landlord of his intention to make repairs to buildings, and of the manner in which he proposes to make them. He must then wait a reasonable time for the landlord to make the repairs before he can effect them and claim compensation at the end of the tenancy. 13/

Improvements Made During Prior Tenancies. The tenant may claim compensation, not only for those improvements which he made during the tenancy at the end of which he quit the farm, but also for any improvements effected by him during a previous tenancy. He may also include any improvements which any preceding tenant effected and for which he reimbursed the preceding tenant with the written consent of the landlord. 14/ Furthermore, as indicated above, when the farm is sold and the tenant continues as a tenant of the purchaser, he may, on quitting the farm, claim compensation for improvements executed by him, both while the new owner was his landlord and also while the vendor was his landlord. 15/

Improvements Made During the Last Year of Tenancy. The landlord is protected against an unscrupulous tenant who might, during the last year of the tenancy, or after he has received or has given notice to quit, undertake improvements for the purpose of increasing his claim for compensation. In respect to all improvements excepting manure, the tenant must obtain the consent of the landlord, either through assent or failure to object, for those improvements which he proposes to effect during the last year of the tenancy, or after he has received or given notice to quit. This time restriction varies according to the type of tenancy and the provisions regarding notice to quit. In respect to all artificial and purchased manure, or manure produced on the farm, the tenant may claim compensation for the unexhausted value thereof without regard to when it was applied. This provision applies similarly to yearly tenancies and to tenancies for a period of years, owing to another provision of the Act which makes it impossible to terminate a tenancy without having given a notice at least one year prior to the termination date.

Summarizing, it has been shown above, that the Agricultural Holdings Act of 1923 gives to the tenant the statutory right to

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12/ First Schedule, Part III. No. 28.
13/ Ibid. No. 29.
14/ Section 7.
15/ Davies, Clement E. Op. cit. p. 60

claim compensation for the unexhausted value of a specific list of improvements which he may have effected on the farm. It, furthermore, makes it impossible for the tenant to contract out of this right. In order to claim such compensation, however, the tenant must have complied with definite rules and regulations prescribed by the Act. It was indicated that he might also claim compensation under an agreement with his landlord, or according to the custom of the community, or under all three insofar as they do not overlap.

Compensation for High Quality Farming

In addition to the improvements listed in the First Schedule, the Act provides that the outgoing tenant may claim compensation for any increase in the value of the farm to an incoming tenant which is over and above what the value would have been had not the outgoing tenant continually adopted a system of farming superior to that required by the contract of tenancy. 16/

Before the tenant can avail himself of this privilege, there must have been made a record of the condition of the farm, proper written notices must have been sent, and he must have quit the farm at the termination of the tenancy. 17/ Compensation cannot be awarded under this provision and under the First Schedule of the Act for the same improvement. Further, any claims for compensation under this provision must be preferred before a single arbitrator, who functions according to the regulations discussed in detail in a later section. 18/

Compensation for Deterioration and Waste

In order to regulate further, in an equitable manner, the relations between the agricultural landlord and tenant, the Act provides that at the termination of a tenancy the landlord may claim compensation from the tenant for any deterioration to the value of the farm which was caused by the failure of the tenant to cultivate it according to the rules of good husbandry, or as provided in the terms of the contract of tenancy. 19/ Any claim for compensation under this provision must be preferred before a single arbitrator after proper notices have been given and other specific conditions

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16/ Section 9 (1).
17/ Section 9 (1) (a) and Section 32.
18/ See p. 49.
19/ Section 10.

ret. The arbitrator shall award the landlord a sum such as in his opinion represents the deterioration of the farm. The landlord may, at any time during the tenancy, claim compensation for deterioration to the farm which may have resulted from the tenant's exercising his right of freedom of cropping and disposal of produce as permitted in Section 30.

The Act further provides that any "waste wrongly committed or permitted by the tenant" is subject to arbitration, as provided in the Act, whereby the landlord may claim damages or compensation for such waste. 20/ The landlord may also obtain an injunction restraining the tenant from committing waste. 21/

Compensation for Disturbance

In regard to length, leases in England and Wales are of two major types, as explained above. There are the year-to-year leases which create yearly or annual tenancies, and also the leases for a period of two years or upward which create tenancies for a term of years. The 1923 Act provides that the landlord shall not terminate the tenancy at the expiration of the term of the lease, regardless of its provisions, without becoming liable for compensation for disturbance unless certain conditions exist, which are explained below. It does not, however, diminish the right of the landlord to terminate the tenancy at the expiration of the term subject to the compensation provision. Neither does it create in any way a system of dual ownership, nor does it secure to the tenant fixity of tenure. It was designed to make the tenant more stable in his tenure on the farm, to relieve him of the feeling of insecurity, and to provide for just compensation in case he is unreasonably evicted. It apparently accomplishes these objectives to a marked degree.

When Compensation is Payable. Compensation for disturbance shall be payable by the landlord to the tenant in all cases where the tenancy is terminated by notice to quit given by the landlord which results in the tenant's quitting the farm, unless the tenant: (a) is not cultivating according to the rules of good husbandry; (b) has not complied with notice to pay rent due; (c) has not complied with notice to remedy a breach of contract which is capable of being remedied; (d) has committed a breach incapable of being remedied; (e) is bankrupt or compounded with his creditors; (f) has refused or failed to agree to arbitration as to the amount of rent to be paid; (g) has unreasonably refused or failed to comply

20/ Section 16 (1).
21/ Section 30 (2).

with the landlord's request to execute an agreement setting out the existing terms of the tenancy; or (h) has unreasonably refused or failed to accept the landlord's offer to withdraw the notice to quit. 22/ Furthermore, there is a second category of exceptional cases in which compensation for disturbance shall not be payable: (a) unless the tenant has given a written notice of his intention to claim compensation one month prior to the termination of the tenancy; (b) when the tenant has died within three months prior to the notice to quit; (c) in respect to the entire farm where the notice to quit part of the farm does not diminish the size of the farm by more than one-fourth, or where the remaining part of the farm is reasonably capable of being cultivated as a separate farm; (d) where the farm is to be used for some purpose other than farming, if acquired for that purpose by a government authority or some corporation; (e) where the land is usually a permanent pasture but is let for cultivation as arable land on condition that the tenant shall, along with the last crop, sow permanent grass seed; (f) where the landlord expressly reserves the right to resume occupation of the farm before the expiration of seven years, provided that at the time of the creation of the tenancy the landlord had been in occupation of the farm for not less than twelve months; or (g) in respect to the sale of goods, implements, produce or fixtures, unless the tenant has given the landlord a reasonable opportunity to make a valuation thereof before the sale. 23/ These qualifying provisions were designed to reduce to a minimum the number of cases where the claim for compensation for disturbance might work undue hardship on the landlord. Although these exceptions are numerous, the cases to which one or more of them apply are usually clearly understood, and questions regarding them are not exceptionally frequent.

The landlord shall also be liable for compensation for disturbance where the tenant quits the farm because of the refusal or failure of the landlord to arbitrate as to the amount of rent to be paid for the farm. 24/

Whether or not the farm is being cultivated according to the "rules of good husbandry", as provided in the first qualifying provision, is a question of fact. The landlord and tenant are both protected in regard to this question by the power of the landlord to apply to the local agricultural committee for a certificate

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22/ Section 12 (1).
23/ Section 12 (7).
24/ Section 12 (3).

that the tenant is not cultivating the farm according to the rules of good husbandry, and the privilege of appealing the decision of the agricultural committee to an arbitrator, by either the landlord or tenant. Subject to this appeal the findings of the agricultural committee are final and conclusive. 25/

It is not every breach of the terms of the contract or condition of tenancy which will deprive the tenant of his right to compensation for disturbance if the landlord gives notice to quit in consequence thereof. The tenant, according to the second and third qualifying provisions, must be in arrears of rent, or he must have broken a term or condition consistent with good husbandry and, in addition, he must have failed to remedy such breach within a reasonable time subsequent to a notice from the landlord to remedy such breach, or it must be a breach incapable of being remedied, according to the fourth qualifying provision. Neglecting to repair fences or to destroy noxious weeds are examples of the first category, while the cutting of trees or the plowing of permanent grassland are examples of a breach incapable of being remedied.

The failure of either the landlord or the tenant to agree to arbitrate, as to the amount of rent to be paid for the farm as from the next ensuing date of tenancy, is an important breach in the condition of tenancy, provisions in the contract to the contrary notwithstanding. When the tenant fails to agree to arbitration of rent, the landlord may serve notice to quit without being liable for compensation for disturbance; should the landlord so fail, the tenant may serve notice that he is quitting, and then hold the landlord liable for compensation for disturbance the same as if the landlord had served the notice to quit without due cause. The arbitration of rent will be further discussed in a subsequent section. 26/

The tenant is required to give the landlord a reasonable opportunity of making a valuation of those things which might be sold by the tenant as a consequence of his quitting the farm in order that definite information may be available upon which to determine the loss, if any, which the tenant has experienced because of quitting the farm.

The Act, except for certain restrictions, makes it possible for the landlord to give notice to the tenant to quit part of the

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25/ Section 12 (2).
26/ See p. 42.

farm without being liable for compensation for disturbance. This provision makes it possible for the carrying out of definite land-use policies of the government without serious restriction, and it makes it possible for the landlord to undertake certain works which are definitely in the public interest, and to exercise certain other functions which do not materially affect the farming operations of the tenant. 27/ An exception is made where the contract, under certain conditions, expressly states that the landlord intends to resume possession within seven years. This is done so as to prevent hardship upon a person who has been occupying the farm, but who finds it temporarily necessary to rent the farm to a tenant.

Amount of Compensation. The compensation payable by the landlord for disturbance "shall be a sum representing such loss or expense directly attributable to the quitting of the holding as the tenant may unavoidably incur in connection with the sale or removal of his household goods, implements of husbandry, fixtures, farm produce or farm stock on or used in connection with the holding, and shall include any expenses reasonably incurred by him in the preparation of his claim for compensation." 28/ The Act states that "in order to avoid disputes" when any loss or expense exists, the sum shall be equal to one year's rent of the farm unless it can be shown that the loss and expense incurred exceed such an amount, in which case the sum shall be equal to the whole amount incurred up to two years' rent of the farm. Thus, if the tenant proves that some loss was incurred, a minimum of one year's rent is recoverable, regardless of whether or not the loss was equal to one year's rent or to only a small fraction of one year's rent.

There are two exceptions to this method of computing the compensation. Both of these exceptions involve situations where the notice to quit does not pertain to all the land the tenant is farming. In the first case, if the notice relates to a specific part of the farm only, and the remaining part is reasonably capable of being cultivated as a separate farm, then the compensation shall be payable in respect only to that portion of the farm to which the notice related, regardless of whether or not the tenant quits the entire farm. In the second case, where the tenant rents two or more farms and the notice to quit relates to less than the entirety of the farms, the compensation shall be reduced by such amount as represents the reduction, if any, of the loss attributable to the notice to quit by reason of the continuation in possession of the other farms.

27/ Section 12 (7) (d) and Section 27.
28/ Section 12 (6).

The Act contains special provisions relating to land attached to and usually occupied with the mansion house, and to cottages, including the garden, occupied by a workman employed on the farm. In regard to the former situation, the principles of "good and sufficient cause" and "good estate management", as first laid down in 1906, are generally adhered to, while in respect to cottages, special provisions are made. 29/

Compensation for Damage by Game

According to common law precepts the tenant originally had the exclusive right to the game on the farm occupied by him. The Game Act of 1831 made it possible, however, for the landlord to reserve to himself the right to game. Following this Act, the right to kill game was generally reserved by the landlord, and the tenant could not kill game even though he saw them destroying his crops. A partial remedy to this situation was made by the Ground Game Act of 1880. This Act made it impossible for the landlord to reserve, or for the tenant to alienate his right to kill ground game. It did not, however, afford the tenant any remedy regarding damage by winged game. The tenant is not at present permitted to kill winged game, but he can claim compensation from the landlord for any significant damage done by such game. This provision was first introduced in 1906 and has been included in subsequent Acts.

When Compensation is Payable. Compensation for damage by game is payable only when the right to kill the game "is vested neither in the tenant nor in anyone claiming under him other than the landlord", and when the damage exceeds in amount the sum of one shilling (approximately 25 cents) per acre for the area over which the damage extends. 30/

When the tenant is not prevented by the lease, or if prevented by the lease and subsequently is given written permission to kill the game, he has the remedy in his own hands to prevent the game from doing damage to his crops, and therefore he cannot claim compensation from the landlord. Also, where the tenant transfers to a third party his right to kill the game, he must claim damage, if any, from the third party and not from the landlord, and under his agreement with the third party and not under the Act, provided the third party arrangement is not with the landlord. The Act specifically states "other than the landlord" in order to prevent the landlord from letting the tenant have the right in the first instance,

29/ Sections 13 and 14, respectively.
30/ Section 11 (1).

and then compelling the latter to sublet the sporting right to him, thereby relieving the landlord of any responsibility for damage by game.

The landlord and the tenant cannot contract out of these provisions of the Act; neither can they limit in any way the amount of the landlord's liability for damage by game. The Act makes the landlord liable for damage by game not only when he retains the shooting right but also when such right is let by him to a shooting tenant.

Amount of Compensation. The parties may agree, subsequent to the damage, as to the amount of the compensation payable under the Act. In default of agreement the amount shall be settled by an arbitrator. The arbitrator has full and entire discretion, upon hearing the evidence brought before him by both parties, as to the extent of the damage and the amount payable to the tenant. No compensation shall be recoverable unless the tenant gives the landlord a written notice as soon as possible after the damage was first observed, and unless he presents a written claim, with particulars, within a month after the end of the calendar year, or some other twelve-month period substituted therefor by the landlord and tenant.

Special Compensation Provisions Regarding Market Gardens

The 1923 Act not only applies to farms, but also to market gardens. All that has been written above regarding agricultural farms applies with equal force to market gardens, regardless of how small they may be. Therefore, the market gardeners have all the rights conferred upon them that are given other tenant farmers. But over and above these rights, the market gardeners are given special privileges. 31/ Because of the wide variety of gardens and allotments of various sorts in England and Wales, a detailed definition of what constitutes a market garden is an essential part of the Act. The specific provisions pertaining to market gardens are set forth in the Act in more or less detail. It does not appear worthwhile to discuss these definitions and special provisions in this paper; it is sufficient to point out that in addition to the list of improvements comprised in the First Schedule of the Act, the market gardener may claim compensation for improvements listed in the Third Schedule of the Act as if they were comprised in Part III of the First Schedule -- that is, the tenant may make those im-

31/ Section 48.

provements and claim compensation therefor without regard to obtaining the written consent of the landlord or to the necessity of giving notice to him.

Freedom of Cropping and Disposal of Produce

It is customary for leases in England and Wales to limit the freedom with which the tenant may determine what crops shall be grown and the manner in which the produce of the farm shall be disposed. Furthermore, the custom of the community in many cases limits the freedom with which the tenant may act in these regards. The Act provides that the tenant may follow any cropping system or practice which he chooses, notwithstanding an agreement or custom to the contrary, provided he protects the farm against injury or deterioration. In the case of disposal of the produce from the farm, this protection consists in returning to the farm the full equivalent manurial value of all crops removed from the farm in excess of the agreement or the custom of the community.

The freedom of cropping which is granted under this provision applies to arable land only. Meadow or pasture land and woodland are expressly excluded from this provision. Throughout the Act, it appears that every reasonable endeavor has been made to protect the meadow or pasture land and the woodland from injury on the part of the tenant.

When the tenant exercises his rights under this provision in such a manner as to injure the farm, the landlord shall be entitled to recover damages at any time in respect to such injury. He may do so without prejudice to any other remedy which may be open to him; and in case of anticipated injury of a flagrant nature, the landlord may obtain an injunction restraining the tenant from exercising the rights given him under this provision. Any damages due the landlord may or may not be determined by arbitration. In case of dispute regarding the amount of the damage, the landlord has the privilege of using arbitration, but the provision does not require that he do so. Therefore, he may carry the dispute to either the County Court or the Court of Summary Jurisdiction. Of course, the burden of proof in such cases is always on the landlord. 32/

It should be noted that the provision granting the tenant freedom of cropping and disposal of produce does not apply during

32/ Section 30.

the last year of a tenancy. This is a direct endeavor to decrease the number of cases in which disputes may occur, owing to acts on the part of the tenant which may be committed after notice to quit has been served. The Act further protects the farm and the landlord during the last year of the tenancy by making it unlawful for the tenant to remove from the farm any manure or compost, or any hay grown during the last year of the tenancy, unless the tenant has given the landlord or the incoming tenant a reasonable opportunity to purchase such products at their fair market value. 33/

Fixtures and Emblements

The fixtures and emblements which the tenant may have effected on the property are no longer subject to the old maxim that whatever is planted in the soil belongs to the soil, or whatever a tenant affixes to the soil or to something attached to the soil, he cannot afterward remove without committing waste. The Agricultural Holdings Act of 1923 expressly gives the tenant permission to remove the fixtures which he has constructed. It makes it possible for him to remain on the farm until sufficient time has elapsed during which he is able to harvest any crops which he may have planted, or it provides for compensation for any crops which he may not be able to harvest.

Before the tenant can remove any fixtures or any buildings for which he may not claim compensation as provided in Part I of the First Schedule of the Act and not commit waste, the following conditions must exist: (a) the tenant must pay all rent owed by him, and he must meet all other obligations to the landlord in respect to the farm; (b) the removal of the fixtures or buildings must not unavoidably damage other buildings or any other part of the farm; (c) in case any damages occur, the tenant must repair them immediately; and (d) the tenant must give written notice to the landlord of his intention to remove the fixture or building at least one month prior to the date of such removal.

The landlord may, at any time during the one-month period mentioned above, give notice to the tenant of his desire to purchase any or all of the fixtures or buildings mentioned in such notice, in which case the fixture or building becomes the property of the landlord. The landlord must pay the tenant the fair value of such improvement which is determined either by agreement or arbitration,

33/ Section 31.

and which represents the value of the improvement to an incoming tenant.

In case the landlord does not signify his intention to purchase the fixture or building, they are, according to the Act, the property of the tenant, and they may be removed by him not only during the currency of his tenancy, but also within a reasonable time after the termination of his tenancy. What constitutes a reasonable time is a matter of fact, and must be determined in the light of the conditions surrounding each case. It should be noted that the landlord and tenant may contract out of the provisions pertaining to fixtures. 34/

The Act contains three important provisions in regard to emblements -- i.e., those crops or products which ordinarily repay the labor by which they are produced within the year in which that labor was bestowed. The first provision makes it possible for the tenant, in case of death, to pass to his heirs all emblements, even though they are still affixed to the soil. The second provision requires that the landlord give the tenant at least twelve month's notice before the end of the then current year of tenancy in case he decides to terminate the lease. This makes it possible for the tenant to obtain full value for any labor which he may put upon any crops. 35/ The third provision pertains to a mortgagee who comes in possession of the property subsequent to the commencement of the tenancy. It provides that the mortgagee shall not be able to obtain possession of the farm without giving the tenant a written notice six months prior to the date on which he desires possession. It also provides that when the lease is terminated before the tenant has an opportunity to harvest all his crops, the mortgagee shall compensate the tenant for the unharvested crops, and also for any expenditure which he has made upon the land with the expectation of remaining on the farm for the full term of his contract of tenancy. 36/

The Act further provides that when either a mortgagee or a tenant's heirs shall come into possession of a farm, the conditions and restrictions apply during the continued occupation in the same manner as they would have applied between the original landlord and tenant.

34/ Section 22.
35/ Section 25.
36/ Section 15.

Rent Adjustment and Regulation

The Agricultural Holdings Act of 1923 contains two important provisions in reference to the amount of rent paid for agricultural properties. It voids all contractual provisions requiring penal rent or liquidated damages, when such rent or damage is in excess of damages actually experienced, and without setting up a rent tribunal, it provides for an indirect method whereby rent may be adjusted. The latter provision is in sharp contrast with practices in respect to rent adjustments in Scotland, where the Scottish Land Court can adjust rent, upon the application of either party. 37/

In respect to penal rent and liquidated damages, it has been the practice in England and Wales to insert in the contract of tenancy a provision which requires the tenant to pay a definite sum or an increased rent for the non-performance of certain phases of the rental agreement, or the obligation for non-performance may be a definite sum for the amount of the damage caused by a specific breach. Generally, the former type of payment is termed "penal rent", while the latter is spoken of as "liquidated damages." The Act provides that the landlord shall not be entitled to recover, by distress or otherwise, any sum in consequence of any such breach or non-fulfillment in excess of the damages actually suffered by him notwithstanding any provision in the contract to the contrary. It does make exceptions, however, in regard to the breaking up of permanent pasture, the grubbing of underwood, the felling or injuring of trees, and the burning of heather. For all other breaches or non-fulfilment, an inquiry into the amount of the damages must be made, and the landlord can recover the amount so ascertained, and no more. 38/

The adjustment of rent under the Agricultural Holdings Act is closely related to the rights and privileges of each party when the lease is terminated. In the first place, a tenant may claim compensation for disturbance in event the landlord refuses a request that there should be an arbitration in respect to the amount of rent payable, and in consequence the tenant quits the farm. In the second place, the landlord is not liable for compensation for disturbance in event the tenant refuses or fails to agree to a request

37/ See the LAND POLICY CIRCULAR, February 1936, pp. 25-26. (Published by Division of Land Utilization, Resettlement Administration, Washington, D. C.)

38/ Section 29.

of the landlord that there should be an arbitration in respect to rent, and in consequence the landlord gives the tenant notice to quit. The demand for arbitration as to rent is void if it is made in such a way that the increase or reduction in rent would take place before the expiration of two years from the commencement of the tenancy, or from the date on which a previous increase or reduction took place. Thus, the English tenancy system provides a method whereby rent can either be adjusted by arbitration as often as each second year; or whereby the requesting party, if he be the tenant, can terminate the lease and claim compensation for disturbance from the landlord when he will not agree to arbitration; and, if the requesting party be the landlord, he can terminate the lease and not be liable for compensation for disturbance when the tenant will not agree to arbitration.

In ascertaining what rent is properly payable when the landlord and tenant agree to arbitration, the arbitrator must not take into account any increase in the rental value of the farm which is due to the tenant's own activities, whether it be an enhancement of the rental value due to improvements or a diminution of the rental value due to deterioration. The procedure with respect to arbitration in regard to the amount of rent payable is the same as that followed when arbitrating other differences between the landlord and tenant.

Table 2 - Adjustment of Rent in England and Wales as Provided in the Agricultural Holdings Act 39/

Year	Number of cases				Net Reduction (percent)
	Total	Reduced	Increased	Unchanged	
1929	39	36	1	2	14.2
1930	37	32	2	3	12.1
1931	36	33	2	1	15.2
1932	44	43	-	1	13.6
1933	38	35	2	1	14.7
1934	35	32	2	1	12.1

39/ ANNUAL REPORT of the Work of the Land Division of the Ministry of Agriculture and Fisheries. Data for earlier years are not available.

In case the landlord and tenant cannot agree as to the arbitrator, after they decide to arbitrate as to the amount of rent payable, the Act provides that the Minister of Agriculture and Fisheries shall appoint the arbitrator. It is infrequent that the Minister is requested to perform this function. Out of approximately 250,000 tenant-operated farms there have been, on the average, less than 40 such cases each year during the period for which data are available. (Table 2). In the majority of these cases the rent was adjusted downward, while in some cases the rent was increased, and in still others it remained unchanged. The amount of the net reduction, considering all cases for each year, ranged around 12 to 15 percent. Data are not available as to the arbitration proceedings when the landlord and tenant agree as to the arbitrator. Neither is there any indication as to the number of cases where rent was adjusted without arbitration, and which would remain unadjusted without the influence of these provisions in the Act.

Financial Responsibility

The provisions in the Act which pertain to the financial responsibility of either the landlord or the tenant deal only with two situations, namely, arrears of rent and claims for compensation. In respect to the former, the Act decreases the length of time during which the landlord may distrain for rent, and more clearly defines the property which is distrainable. In regard to the latter the Act provides a definite procedure whereby the tenant and the landlord may collect such sums as are legally due them.

According to the laws of England and Wales, when a tenant is in arrears with his rent, the landlord may either bring legal action for its recovery, or he may enter upon the demised premises and seize various goods to satisfy the debt. Prior to 1883, the landlord could avail himself of either of these privileges without regard to how long the rent had been in arrears. The Real Property Limitation Act of that year made it impossible for the landlord to distrain for rent for a period longer than six years after the rent became due. The Agricultural Holdings Act of 1923 further decreased this period by making it unlawful for the landlord to distrain for rent which became due more than one year prior to the making of the distress.

The Act provides that where livestock, belonging to another person has been taken by the tenant to be fed at a given price, the landlord shall not distrain the stock for rent when there is other sufficient distrainable property to be found. It also safeguards

the interest of the party to whom the livestock belongs in case other sufficient distrainable property cannot be found. The Act further makes it impossible for the landlord to distrain for rent any machinery or livestock on the farm which is the property of some person other than the tenant, provided that the machinery is on the farm under an agreement whereby the tenant may use it for the conduct of his business, and where the livestock is on the farm solely for breeding purposes. In any case, where the landlord has distrained for rent and a dispute arises as to his right to do so, the Act provides that the dispute may be settled in the County Court. This relieves the tenant of the necessity and expense of carrying the case to a higher court.

In respect to any claim for compensation under this Act, it is provided that in case of non-payment of the sum when due, such sum shall be recoverable upon an order made by the County Court in the same manner as any other sum ordered to be paid by the County Court under its ordinary jurisdiction. According to the statutes governing orders from the County Court, the sum may be recovered by an execution against the goods of the debtor, by garnishees, or by imprisonment of the debtor.

The Act gives the landlord the right to charge the outlay for compensation for improvements against the farm. This makes it possible for a landlord, who has a limited right in the farm, to hold the farm financially responsible for the improvement rather than pay the sum out of his own personal estate. It even makes it possible for an owner in fee simple to protect his personal fortune against any liability for compensation for improvement placed on the farm. Any capital money may be used by trustees for the same purpose. 40/

Miscellaneous Provisions

Right of Entry. Prior to the Agricultural Holdings Act of 1900, a landlord had no right to enter upon the premises let to his tenant, except as such right was expressly reserved by him in the contract of tenancy or given him by the tenant. If he did enter without permission, he was liable for trespass, regardless of the unreasonableness of the tenant's attitude.

The present Act states that the landlord or any person duly authorized by him may at all reasonable times enter on the farm

40/ Sections 20 and 21.

for the purpose of viewing its condition. It is, therefore, no longer necessary to reserve this right in the contract of tenancy. It should be noted that this provision gives the landlord the right to enter to view only. Thus, if the landlord desires to reserve the power to enter for any other purposes, he must expressly state it in the agreement, otherwise the tenant can treat him as a trespasser.

Notice to Quit. A notice to quit a farm is invalid if it purports to terminate the tenancy earlier than twelve months from the end of the then current year of tenancy. Thus, if in July a landlord desires to have the tenant quit the farm at the end of the tenancy year, and gives a notice to the tenant to quit, the notice cannot, for example, terminate the tenancy the following March, but it must be so stated as to clearly indicate that the tenancy is to be terminated in March of the second year following -- that is, over one and one-half years later; otherwise the notice is invalid. Exceptions are made to this provision in respect to notices given in behalf of the Admiralty, War Department, Air Council, a corporation carrying on transportation, a notice given in respect to a contract which states that possession is to be resumed for some specified purpose other than agriculture, and a notice given by a tenant to a sub-tenant.

Record of Farm. A case may arise, similar to that indicated in the paragraphs pertaining to compensation for high quality farming, in which a record of the condition of the farm is highly desirable. The Act provides that either the landlord or the tenant can require that such a record be made. The record is made by a person agreed upon between the landlord and tenant, and in default of agreement the person is appointed by the Minister of Agriculture and Fisheries. The cost is to be borne equally by both parties, in case of disagreement as to who shall bear it. The condition of buildings, fences and gates, roads, drains, ditches and cultivation are essential, and in addition, the tenant may require that a record be made of the condition of any improvement for which he may be compensated at the end of the tenancy and of any fixtures which he may be entitled to remove.

Adjustment of Differences Between Landlord and Tenant

There are four ways of adjusting landlord and tenant relations in England and Wales: (a) by agreement between the two parties; (b) by agreeing to accept the valuation method; (c) by arbitration; and (d) by court action. It is impossible from the available

records to determine the proportion of the cases which are handled by each method. It appears, however, that the statutes are so arranged that the landlord and tenant understand their rights and duties and agree upon most points in the lease. There are very few cases taken to court. The cases which are taken to court are held to a minimum owing to the compulsory arbitration procedure provided by the Agricultural Holdings Act. It appears that most of the problems upon which the landlord and tenant do not fully agree are determined by the valuation method in which two valuers, sometimes assisted by a third valuer, agree as to the problems presented. 41/ The arbitration method is quite frequently used, especially when there is a dispute between the two valuers. The distinguishing difference between valuation and arbitration is that whereas arbitration is used to settle differences or disputes, valuation is used to prevent them. The valuation procedure will be discussed first, and then the provision of the Act regarding arbitration will be reviewed.

Valuation. Even before the first Agricultural Holdings Act in 1875, the custom of the country and the common type of agreement between the landlord and tenant accorded the tenant certain rights at the termination of the lease. It was necessary that a value be assigned to these rights. There was a tendency for certain well-informed farmers to be used in making these valuations. As tenant rights were greatly expanded by the various Agricultural Holdings Acts, there naturally evolved a semi-professional group who followed the business of making valuations. This growth has persisted until at present there is an association of agricultural valuers in most of the counties of England and Wales which is affiliated with a national organization known as the Central Association of Agricultural Valuers.

These agricultural valuers meet periodically to discuss methods, procedures and practices, and to study their problems together in order better to qualify themselves for the duties which they are called upon to perform. The valuers, through their local associations and with the assistance of the agricultural experiment stations and their central association, have fairly definite schedules which they use in evaluating certain improvements. For their schedules regarding the residual values of feeding stuff and fertilizers, see Table 6 and Table 7 in the Statistical Supplement. It is from this group that the landlord and tenant usually select

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41/ Jackson, T. C. AGRICULTURAL HOLDINGS ACT, 1923, p. 84.

valuers to solve, in an amicable manner, problems arising from the leasing agreement.

When the two valuers are duly appointed by the landlord and tenant, they meet at the farm to carry out their work. The valuer for the outgoing tenant usually submits the claim and produces such schedules and records as are available. Then, the two valuers go through the documentary evidence and inspect the stock, supplies, buildings, fences and the land. They then, either individually or together, determine upon a valuation for each item set forth in the claim. When they cannot agree as to the valuation they may call in a third party, who is usually another agricultural valuer, to determine the valuation. In some cases, however, the difference is so great or involves such matters as to make it advisable to call in an arbitrator. In the former instance, the procedure is strictly one of valuation, and the methods followed do not conform to those required by an arbitration procedure, which is explained below.

Arbitration. As a general rule, the major differences or disputes which arise between the agricultural landlord and tenant in England and Wales are settled by the arbitration method before a single arbitrator. Where there is no difference or dispute between the landlord and tenant, the two parties agree as to the amount of compensation, or they agree to accept the verdict of two valuers, as has been explained above. In cases where there is a difference and where the arbitration method is not compulsory according to the Act, the difference may be settled through ordinary court procedure.

The Agricultural Holdings Act of 1923 specifically requires that certain differences which may arise under the Act, the leasing agreement, the customs of the community, or otherwise, shall be settled by arbitration, and by no other method. For example, Section 5 provides that if the claims for compensation for improvements comprised in the First Schedule of the Act cannot be agreed upon between the landlord and tenant the difference shall be settled by arbitration. Section 16 (1) lists a large number of differences which may arise, and which must be settled by arbitration when such differences arise. In various places throughout the Act, it is provided that in default of agreement as to the particular provision under discussion, the matter shall be determined by arbitration. And finally, the rules as to arbitration are set forth in the Second Schedule of the Act, and the Minister of Agriculture and Fisheries is given power to make such regulations as he thinks

desirable for expediting and reducing the costs of arbitration proceedings. 42/

Appointment of an Arbitrator. When the landlord and tenant cannot agree as to any question arising under the Act, they get together, and in writing appoint an arbitrator. In case of disagreement as to arbitrator, either party may make a written application to the Minister of Agriculture and Fisheries who will forthwith appoint an arbitrator. In either case the decision of the arbitrator, if legally made, shall be binding on both parties, and neither party can revoke the appointment. Both parties may, however, by mutual consent, revoke the appointment of an arbitrator.

When the Minister of Agriculture makes the appointment, he must select the arbitrator from a panel consisting of such persons as may be appointed by the Lord Chief Justice of England. The only qualification of the arbitrator set forth in the Act states that when an arbitrator is appointed by the Minister for work in Wales or Monmouthshire he must posses a knowledge of Welsh agricultural conditions and, if either party requires, have a knowledge of the Welsh language. In general practice, however, the Lord Chief Justice's panel is usually composed of men who have a wide knowledge of agriculture, actual experience in making agricultural valuations and appraisals, and considerable knowledge of the law governing the agricultural landlord and tenant.

The County Court may remove an arbitrator who has misconducted himself. Misconduct in the legal sense occurs when the arbitrator fails to abide by the rules and regulations promulgated by the Minister, the principles set forth in the Act, the general rules of the Arbitration Act of 1889 insofar as they apply, or otherwise conducts himself in an unbecoming manner in the performance of his duties.

Powers and Duties of the Arbitrator. It is the duty of the arbitrator first to ascertain what his powers are in respect to the particular case, and to determine, in detail, the nature of the difference submitted to him. He has full discretion as to time and place of the arbitration, except that he must meet the time limits set forth in the Act. As to the details of the procedure, the arbitrator can, within limits, expedite the matter in any way he thinks fit. He usually hears the claimant and his witnesses, then

42/ Section 17 (1).

the respondent and his witnesses; then the respondent sums up his case and the claimant makes his reply. The arbitrator can refuse the active use of a counsel by either party, but he cannot prevent a counsel from being present and advising his client during the proceedings. He may allow a solicitor or a valuer to conduct the case on behalf of a party, but he is not obliged to do so. In general it appears that valuers are used quite generally, while a counsel is seldom used.

In the presentation of the relevant information in respect to the case, the claimant and the respondent may use witnesses, samples, deeds, books or any other documentary exhibits. If there is other information which the arbitrator feels he needs, he can require that it be presented. He may subpoena witnesses and documents, subject to legal limitations, and according to an amendment passed in 1934, a prisoner who has been confined by any civil action may be brought up for examination. 43/

The arbitrator takes notes, and usually has a brief written record regarding the hearing. He must follow the same rules in regard to evidence as courts of law, but has considerable latitude in his conduct of the hearing. In making his award he must weigh all of the evidence before him and adhere strictly to the question or questions submitted to him. When his verdict is arrived at in a legal manner, it is final and no appeal is possible. The arbitrator may of his own initiative, however, state, in the form of a special case for the opinion of the County Court, any question of law arising in the course of the arbitration. Upon the application of either party the Court may direct him to so state a special case, in which event he is compelled to do so. The decision of the County Court may be appealed to the Court of Appeals, from whose decision no appeal shall be taken.

The Award. The Act provides that the award shall be made within twenty-eight days of the appointment of the arbitrator, subject to an extension by the Minister. It is seldom that extensions are made, however.

The arbitrator shall state separately in his award the amount awarded in respect to the several claims referred to him. The arbitrator must fix a day, not later than one month after the award is made, for the payment of money awarded as compensation, costs and otherwise. He may, if he thinks fit, make an interim award for

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43/ ARBITRATION ACT, 1934.

the payment of any sum on account of the sum to be finally awarded. The award is final and binding upon all parties, provided there is not some obvious mistake, new evidence or misconduct. The County Court has authority in regard to such matters.

The cost of the arbitration, the making of the award and the arbitrator's fee may be, and is in practice, determined by the arbitrator. The cost of making the award, and of the whole arbitration as determined by the arbitrator, has in the past been divided equally between the two parties. There is, however, a trend toward apportioning the cost according to the reasonableness of the claims and the mode of presenting the evidence. The arbitrator's fee is based on the time required, the importance of the questions involved and the amount of the award. If the fee as fixed is not satisfactory to either party, it is determined by the County Court Registrar. The arbitrator's fee is recoverable as a debt from either party.

CHAPTER IV

SUMMARY

Many American economists who have studied the English and Welsh tenancy system, and those who have observed it in actual operation, commend many of its principles and practices to American legislators, landlords, farm managers, and tenants. A later Land Use Planning publication will discuss the applicability of the principles underlying the English and Welsh legislation to American conditions and practices. In order to visualize the significance of the legislation under discussion, it was felt necessary to present this short paper on the nature and extent of tenancy in England and Wales.

The tenancy system in both countries is praised with particular reference to the effectiveness with which it places the tenant-operator in a position similar to that of an owner-operator in respect to his operation of the farm and his participation in the activities of the community. The tenancy system of England and Wales is based upon a long and varied experience in adjusting the relations between the owner of the farm and those who do the actual cultivation of the soil.

Feudalism and the manorial type of agricultural organization furnished experience in landlord and tenant relations, and proved important in shaping English and Welsh agriculture during the following centuries. With the disintegration of feudalism and the manorial system, England and Wales became a land of small owner-operators. But the Black Death, the forerunner of the enclosures, the commercialization of agriculture, and the concentration of wealth proved too much for the small owners, and an unregulated tenancy system took the place of owner-operation. Under this system the soil resources were depleted and the rural tenantry seriously exploited. Out of the enlightened interests of Parliament for the English and Welsh tenant farmers, and based upon the experiences of leading landlords and tenants, there was developed a system of statutory regulations which has practically displaced the self-destructive, individualistic system which grew up under the policy of laissez-faire.

Under the unregulated system, the rights of the tenant were very limited. At the termination of the lease, he could not remove

fixtures, emblements or other improvements which he had effected during his occupancy of the farm. Neither could he force the landlord to compensate him for such items. The landlord could evict the tenant without due cause, and the tenant had no recourse. He could increase the rent required of the tenant, even on improvements made by the tenant, and the latter could pay the increased rent or move on. By law, the fundamental rights of the tenant to kill game, even for food for his family or to protect his own crops, were abrogated. The system of farming and the disposal of the produce could be completely dictated by the landlord. In fact the landlord reigned supreme as if through some divine right. There were a few landlords, however, who did not take advantage of this opportunity of exacting the last pound of flesh, and it was upon their advanced ideas that the legislative policy was based.

The first statutory approach to adjust the rights of the two parties equitably was made about the middle of the nineteenth century. It gave the tenant at the termination of the lease the right to remove fixtures, emblements, and buildings erected by him. Then Parliament in 1875 really attacked the problem of the agricultural landlord and tenant. It enacted the first of the Agricultural Holdings Acts which provided compensation for the unexhausted value of a specific list of improvements effected by the tenant. The Act was permissible, however, and many landlords soon forced their tenants to accept contracts which circumvented its provisions. The Agricultural Holdings Act of 1883 remedied this situation by making it impossible for the tenant farmer to alienate the rights afforded him by the Act. This Act was amended from time to time so as to include, in addition to compensation for improvements, (a) compensation to the tenant when a mortagee took possession of the farm just the same as if the mortgagor was in possession; (b) compensation to market gardeners for a special list of improvements which they are likely to make; (c) compensation for disturbance; (d) compensation for damage by game; and (e) freedom of cropping and disposing of produce. The 1883 Act and its amendments were finally consolidated by the Agricultural Holdings Act of 1908. Again there was a series of amendments which added compensation for high quality farming and an indirect method of adjusting rent, and which changed several minor details. During this half century there developed a method of arbitrating differences between landlords and tenants, and a refinement of the concepts of what constitutes deterioration and waste. There were also introduced from time to time regulations pertaining to many of the minor problems

arising out of landlord and tenant relations. Finally, all of these provisions were brought together in the Agricultural Holdings Act of 1923. As a result of these legal regulations, the tenant farmer has been assured that he will be justly reimbursed for any increase in the value of the farm which results from his own efforts, he has a relatively high degree of stability of occupancy and security of tenure, and he may organize and operate the farm as he thinks best so long as the demised property is not deteriorated.

In retrospect, it is now evident that throughout the long development of legislative activity, Parliament followed the policy of placing the tenant farmer in a position as near that of an owner-operator as is reasonably possible. This policy has been carried out by a line of action which was possible only through a growing recognition on the part of national leaders that, in order to maintain an equitable economic system and a permanently productive agriculture, society must often exercise control over both landlords and tenants to a greater degree and in a different manner from the social control inherent in common law doctrines. The English regulatory measures have been based upon experience, and have been revised as new problems have arisen and as experience has pointed the way. Throughout this half century of developing landlord and tenant statutes, Parliament has never discarded a fundamental change which was begun. It is significant that each succeeding statute accorded enlarged privileges to the tenant farmer, either through defining more precisely existing regulations, or by providing regulations for landlord and tenant relations which had not been previously the subject of statutory control.

SCOTLAND'S ACTIVITY IN IMPROVING FARM TENANCY 1/

Marshall Harris and Douglas F. Schepmoes

INTRODUCTION

Much has been written during recent months regarding the shortcomimgs of the tenancy system which exists in the United States. Although some of the literature has been concerned with other tenure groups, the plight of the Southern sharecropper has received major consideration. The discussion has centered largely around the present economic position of these share-cropping tenants, and has included material regarding their low social status; some mention has been made also of the relationship between the tenancy system and erosion and depletion of our soil resources. According to many writers, the way cut of the present tenancy situation is through a more widely diffused ownership of land by farm tenant operators. Few other remedies have been given serious attention.

A study of the experience of older countries in their endeavor to establish upon the soil a virile farm population, to maintain a permanently productive agriculture, and to foster and preserve worthy rural institutions should prove invaluable in helping us in the solution of the tenancy problems in this country. Some of the more important phases of these experiences which should be considered are as follows: (a) those which assure tenant farmers stability of occupancy and security of tenure; (b) those which tend to prevent the exploitation of the tenant by the landlord, and to protect the landlord against acts of the tenant; (c) those which protect the soil against depletion and erosion by either or both parties; (d) those which have been designed to decrease the number of misunderstandings which arise between landlord and tenant; and (e) the special type of legal machinery which has been set up to meet the peculiar problems arising out of landlord and tenant relationships.

1/ Reprint from LAND POLICY CIRCULAR, February 1936. (Division of Land Utilization, Resettlement Administration, Washington, D.C.)

HISTORICAL BACKGROUND

The land tenure history of Scotland is divided into two lines of development: that of the southern, or Lowland, section which borders England, and that of the northern, or Highland, section and the Islands. The system of land tenure in Scotland as it exists today is the outgrowth of a process of evolution begun in very early times, but for the purpose of this study it is convenient to begin with the institution of feudalism, which introduced a comparatively new tenurial arrangement.

The prevailing land tenure system of the greater part of Europe during the Middle Ages was of a feudalistic nature. With the coming to power in 1124 of David I, feudalism was introduced into the Lowlands of Scotland. The new king surrounded himself with a nobility composed largely of Normans, but also including many of the Scottish Celtic Clan Chiefs. The land was divided among the nobility, and re-divided among the serfs on the feudalistic condition of military service in time of war, and the payment of rent, in the form of services and goods, at all times. Thus feudalism in the Lowlands completely displaced the clan system which prevailed at that time, and which was based upon the family relationship, with the chief holding the land as the head of the family. In the Highlands, clan tenure was not displaced by feudalism, but with the extension of David's government into the Highlands, there came to be accepted a general application of some of the principles of feudalism. The Anglo-Norman institutions, however, were alien to the conservative nature of the Gaelic Clans. The clan system was only modified by feudalism, and it survived in an attenuated form until its final extinction in the eighteenth century.

Feudalism reigned supreme in the Lowlands for over 200 years, but began to decline early in the fourteenth century. The lords, the immediate feudal tenants of the king, gradually became more or less independent of the military protection afforded under feudalism. Along with this change came an omission of the essential military features of the tenurial arrangement, and a general commutation of these services to the payment of rent in other forms. By the fifteenth century the change was practically complete, and outright tenancies based upon the payment of goods, services, and money as rent were the rule. This change was in some respects an advancement for the serf. He was partially emancipated from the physical servitude which he owed to the lord. It also had an educational effect in that it familiarized him with money, and gave him some

concept of the comparative values of different kinds of labor and commodities.

Following the disintegration of the feudal system in the Lowlands, and the establishment of a stronger central government, together with a more closely knit social order, there developed in Scotland an unregulated, individualistic system of tenancy. The fixity of tenure which was an integral part of feudalism was no longer present. Under feudalism it was to the interest of the lord to keep the serfs in good condition in the same manner as he did his horses and equipment, but under the new system of tenancy the landlord exploited his tenants, and often the soil resources, under a common law concept which gave him complete jurisdiction over both. Owing to superior competitive position and political power, the landlords took advantage of the tenants in many ways. The latter were forbidden to hunt game for their own consumption or even to kill it to protect their own crops. They were not permitted to remove any fixtures or improvements which they had effected during their occupancy of the farm ,even though the landlord evicted them without due cause. Neither did the landlords pay them for such improvements. Exorbitant rent was often required and the landlord could collect it under the law by seizing the property of the tenant. Evictions were not uncommon. The only recourse which the tenant had was to obtain a favorable contract, specifying his rights and duties. Although contracts were enforceable at law, they did not afford the tenant the necessary security, as practically no one could afford to risk a lawsuit against his landlord. It must be said, however, that some landlords did not attempt to take all rights away from their tenants, but the fact remains that the tenant had no security, and was wholly dependent upon the character of his landlord.

Some of the far-seeing landlords, however, envisaged a more constructive role in the agricultural economy, and came to understand that their interests and those of their tenants were not inimical. They amplified the contractual arrangement so that the soil was adequately conserved; collections of rent were not forced during unfavorable production conditions; a relatively high degree of stability of occupancy was developed; and tenants came to have a sense of security. Finally, during the first half of the nineteenth century, they encouraged tenants to make improvements, both to the soil and to the farmstead, and assured them just recompense when they moved. During the early steps in this development there were many mistakes, and the establishment of a definite system was slow, owing to the desire of many landlords to take every possible

advantage for their immediate gain. It was plain, however, that a more equitable system, patterened after that developed by some of the better landlords, was essential to the continued improvement of agriculture, and as economic integration progressed, it appeared that compulsory action might be necessary to assure equitable leasing conditions for landlords and tenants.

In the Highlands, the situation was significantly different. The modified clan system existed almost to the nineteenth century. The land was let runrig, that is, in strips reallocated periodically, and the pasturage was held in common. Leases, as we know them today, were practically unknown, the tenant held the land at the will of his landlord and paid rent in goods and services. The Napoleonic Wars stimulated the demand for wool, which caused sheep raising to expand very rapidly. The Scottish Highlands were exceptionally well adapted to sheep production, and the clan chiefs found it to their immediate economic advantage to let their lands in large tracts to sheep herders. The agricultural economy was transformed from a large number of small farms, tilled by tenants, to a small number of large sheep ranches. The small tenants without statutory protection were evicted en masse, and forced either to eke out a meagre existence on the barren seashores, or to migrate to America and to the British colonies. The conditions in the Highlands soon became acute owing to the continually recurring famines caused by the failure of the potato crop, upon which the extremely poor tenant class of farmers depended. The growing population, crowded together on the poor and limited area of cultivable land, looked jealously at the large uncultivated sheep farms. Tenants banded together, refused to pay their rents, and seized parts of the sheep farms to use for cultivated crops.

The constant disorder and social strife in the Highlands, together with the inequitable leasing arrangements and unsocial conditions in the Lowlands, did much to impress the statesmen with the necessity for statutory action. During the latter part of the nineteenth and early part of the twentieth centuries, Parliament enacted various statutes which were designed to accomplish the following four major objectives: (a) to describe and define in detail the rights and duties of landlords and tenants, and to make provisions for compulsory adherence to these rights and duties; (b) to set up a court procedure for the purpose of determining fair and equitable rent, and to secure a relatively high degree of stability of occupancy and security of tenure; (c) to establish a system of arbitration which would facilitate the solution of differences between landlords and tenants; and (d) to provide for governmental assistance to worthy tenants who desired to become landlords.

STATUTORY CONTROL OF LANDLORD-TENANT RELATIONS

Before the individual statutory provisions are discussed, it should be pointed out that tenant farming predominates in Scotland. Although there are no data readily available as to the proportion of tenancy during the first part of the nineteenth century, it is clearly evident from all of the literature that owner-operators were uncommon, and that a very large proportion of the farms were operated by tenants. This concept is substantiated by the data presented in Tables 1 and 2, which indicate that over 90 percent of all farms were operated by tenants from 1887 to 1891 and subsequent to 1912. (Tenancy data are not reported between 1891 and 1912). The percentage of land operated by tenants (Table 3) is smaller than the percentage of farms operated by tenants, therefore, tenant-operated farms are much smaller than owner-operated farms. The decrease each successive year since 1912, both in the percentage of farms and the percentage of land operated by tenants indicates part of the results which have been attained by positive legislative action regarding the problems involved in agricultural land tenure. Most of the farms in Scotland are rented for cash, as contrasted with the share-renting system which predominates in this country. It should also be pointed out that Scotland is approximately the size of South Carolina and has a population almost three times as large.

Table 1. -- Number and Percentage of Farms in Scotland by Tenure 1/

Year	Total Number of farms	Farms Owned		Farms Rented		Farms Part Owned	
		Number	Percentage	Number	Percentage	Number	Percentage
1887	81,291	5,995	7.4	74,870	92.1	426	0.5
1888	82,193	6,044	7.3	75,665	92.1	484	0.6
1889	82,453	6,054	7.4	75,889	92.0	510	0.6
1890	83,006	6,049	7.3	76,393	92.0	564	0.7
1891	83,548	6,535	7.8	76,384	91.4	629	0.8

1/ Agricultural Statistics. Department of Agriculture for Scotland. Edinburgh.

Table 2 - Number of Farms in Scotland by Size and Tenure 1/

Year	Total Number of Farms	Size and Tenure of Farms				Total Number of Farms by Tenure		Percentage of Tenancy
		Under 50 Acres		Over 50 Acres				
		Owners	Renters	Owners	Renters	Owners	Renters	
1912	77,662	3,014	48,852	23,574	22,222	5,236	72,426	93.3
1913	77,388	3,278	48,336	2,370	23,404	5,648	71,740	92.7
1914	77,150	3,420	47,927	2,471	23,332	5,891	71,259	92.4
1915	77,108	2/	2/	2/	2/	2/	2/	2/
1916	76,754	2/	2/	2/	2/	2/	2/	2/
1917	76,440	2/	2/	2/	2/	2/	2/	2/
1918	75,982	2/	2/	2/	2/	2/	2/	2/
1919	75,843	2/	2/	2/	2/	2/	2/	2/
1920	75,902	3,335	46,818	2,883	22,866	6,218	69,684	91.8
1921	76,003	3,926	46,371	3,628	22,078	7,554	68,449	90.1
1922	76,001	3,873	46,405	3,951	21,772	7,824	68,177	89.7
1923	76,134	4,052	46,370	4,329	21,383	8,381	67,753	89.0
1924	76,210	4,316	46,229	4,708	20,957	9,024	67,186	88.2
1925	76,161	4,303	46,233	4,986	20,639	9,289	66,872	87.8
1926	76,017	4,834	45,615	5,534	20,034	10,368	65,649	86.4
1927	75,866	6,556	43,784	6,364	19,162	12,920	62,946	83.0
1928	75,812	7,409	42,936	6,876	18,591	14,285	61,527	81.2
1929	75,746	7,821	42,525	7,087	18,313	14,908	60,838	80.3
1930	75,678	8,628	41,680	7,469	17,901	16,097	59,581	78.7
1931	75,850	9,346	41,149	7,784	17,571	17,130	58,720	77.4
1932	75,911	9,517	41,073	7,898	17,423	17,485	58,496	77.1
1933	75,642	9,900	40,502	8,091	17,149	17,991	57,651	76.2

1/ Agricultural Statistics. Department of Agriculture for Scotland. Edinburgh, Scotland.

2/ Not reported.

Table 3 - Number and Percentage of Acres in Farms in Scotland by Tenure 1/

Year	Total Acreage Farmed	Acreage Owned		Acreage Rented	
		Number	Percentage	Number	Percentage
1887	4,864,881	617,768	12.7	4,247,113	87.3
1888	4,878,514	626,557	12.8	4,251,957	87.2
1889	4,888,425	625,699	12.8	4,262,726	87.2
1890	4,896,000	617,660	12.6	4,278,340	87.4
1891	4,917,380	625,964	12.7	4,291,416	87.3
1892	4,901,543	615,840	12.6	4,285,703	87.4
1893	4,890,175	614,856	12.6	4,275,319	87.4
1894	4,892,183	608,179	12.4	4,284,004	87.6
1895	4,894,466	606,176	12.4	4,288,290	87.6
1896	4,896,734	604,973	12.4	4,291,761	87.6
1897	4,892,906	613,293	12.5	4,279,613	87,5
1898	4,892,767	613,629	12.5	4,279,138	87.5
1899	4,897,690	617,340	12.6	4,280,350	87.4
1900	4,899,256	612,952	12.5	4,286,304	87.5
1901	4,900,131	621,651	12.7	4,278,480	87.3
1902	4,897,169	617,921	12.6	4,279,248	87.4
1903	4,891,799	603,138	12.3	4,288,661	87.7
1904	4,888,638	600,989	12.3	4,287,649	87.7
1905	4,880,985	606,878	12.4	4,274,107	87.6
1906	4,873,039	601,548	12.3	4,271,491	87.7
1907	4,866,478	597,523	12.3	4,268,955	87.7
1908	4,863,473	593,475	12.2	4,269,998	87.8
1909	4,859,609	584,094	12.0	4,275,515	88.0
1910	4,853,342	578,470	11.9	4,274,872	88.1
1911	4,845,835	569,881	11.8	4,275,954	88.2
1912	4,821,334	475,125	9.9	4,346,209	90.1
1913	4,797,919	507,683	10.6	4,290,236	89.4
1914	4,786,181	526,557	11.0	4,259,624	89.0
1915	4,781,397	2/	2/	2/	2/
1916	4,775,506	2/	2/	2/	2/
1917	4,776,323	2/	2/	2/	2/
1918	4,761,101	2/	2/	2/	2/
1919	4,751,475	2/	2/	2/	2/
1920	4,739,046	606,007	12.8	4,133,039	87.2
1921	4,729,604	756,663	16.0	3,972,941	84.0
1922	4,725,499	820,749	17.4	3,904,750	82.6
1923	4,724,438	883,558	18.7	3,840,880	81.3
1924	4,715,290	950,190	20.2	3,765,100	79.8
1925	4,705,197	993,593	21.1	3,711,604	78.9
1926	4,693,170	1,094,706	23.3	3,598,464	76.7
1927	4,681,221	1,226,393	26.2	3,454,828	73.8
1928	4,665,462	1,318,859	28.3	3,346,603	71.7
1929	4,652,988	1,350,091	29.0	3,302,897	71.0
1930	4,640,718	1,410,619	30.4	3,230,099	69.6
1931	4,632,200	1,460,446	31.5	3,171,754	68.5
1932	4,622,217	1,482,088	32.1	3,140,129	67.9
1933	4,613,708	1,510,786	32.7	3,102,922	67.3
1934	4,600,440	1,503,291	32.7	3,097,149	67.3

1/ Agricultural Statistics, Department of Agriculture for Scotland. Edinburgh.

2/ Data not reported.

The Hypothec Abolition (Scotland) Act, 1880

Prior to 1880 the landlord held an absolute right to enter upon the tenant's farm and seize his property for the payment of rent. This right was abused by many landlords, and in an attempt to alleviate the condition, the Hypothec Abolition Act of 1880 was passed by Parliament. This Act purported to abolish the landlord's right of hypothec (a type of security given by the tenant) for the rent of land. It did not apply to any claim due or becoming due under contracts already entered into. This was in practice a rather limited gain for the oppressed tenantry. It marked, however, the beginning of sweeping changes in landlord-tenant relations.

The Ground Game (Scotland) Act, 1880

According to an Act of 1621, any one owning less than one hundred acres of land was forbidden the right to hunt game. The majority of agricultural leases expressly reserved all game to the landlord, and prohibited the scaring of the game by the tenant, even to protect his crops against damage. It was not uncommon for the tenant to see game destroying his crops, and all that he could do was to stand by and watch, without the right to protect his own property.

The interdependence between agriculture and other industries was being more completely understood, and the townspeople joined with the farmers, both in the interest of good husbandry and for the protection of capital and labor invested by the occupiers of land, in requesting Parliament to enact the Ground Game Act of 1880. Under this Act the tenant-occupier was given the right to kill rabbits and hares to protect his crops against damage. This right was guaranteed to the tenant by the voiding of all contracts to the contrary, and he was limited only in that he could not hunt at night or kill game with poison. The Act was instrumental in removing the feeling of injustice on the part of the tenant, and also served to improve his economic standing.

Agricultural Holdings (Scotland) Act, 1883

The concept of an outgoing tenant being entitled to compensation for improvements which had been effected by him on the landlord's property was foreign to the laws of Scotland before the passage of the Agricultural Holdings Act in 1883, even though some agricultural leases had provided for compensation prior to that date. The compensation provisions which were written into private

leases were very diverse, and therefore worked hardships upon some tenants who changed farms. Parliament selected the best of the compensation provisions and put them together in a unified whole which applied equally to all farms in Scotland which were used for agriculture or pasture. Compensation was provided, by the Act, for a specified list of improvements which may be conveniently divided into three categories: (a) permanent improvements, such as buildings, for which the landlord's consent was necessary before the tenant could effect such improvements; (b) drainage, for which notice to the landlord was required; and (c) exhaustible improvements, such as increasing the fertility of the soil, which the tenant could effect without consulting the landlord. The amount of compensation was to be the value of the improvement to an incoming tenant. In case the landlord and tenant could not agree upon the value of such improvement, it was to be determined by a system of arbitration provided for under the Act. This Act was a great step forward in the evolution of tenant rights, and removed many causes of disagreement between landlord and tenant.

The Crofters' Holdings (Scotland) Act, 1886

The Agricultural Holdings Act of 1883 applied to the whole of Scotland, but it was thought that it would not relieve the agrarian crisis in the Highlands. The Napier Commission was appointed in 1883 to study the leasing conditions, and to make recommendations for improving them. The Commission made a very comprehensive report with appropriate recommendations. This report led to the passage of the Crofters' Holdings Act, which gave the crofting tenants security of tenure, fair rent, and facilities for the enlargement of their farms.

This Act, and its amendments, applied only to the parishes of the Highlands in which there were crofting tenant farmers. A crofting tenant was defined by the Act as a person who, at the passage of the Act, was a tenant from year to year, residing on his farm, paying an annual rent of not more than thirty pounds, and situated in a crofting parish, or the successors of such persons. A crofting parish was defined as a parish in which there were at the beginning of the Act, or had been within the past eighty years, farms consisting of arable land held with a right of pasturage in common, and in which there still were tenants from year to year paying an annual rent of not more than thirty pounds per farm.

The principal provisions of the Act were as follows: (a) a crofter should not be removed from his farm except for the breach

of a specified statutory condition; (b) he should have a fair rent fixed by public authority; (c) on moving or being removed from his farm the crofter should receive compensation for improvements effected by himself or his predecessors in the same family; and (d) crofters were provided with facilities for enlarging their farms.

For the purpose of carrying out these provisions, the Act established the Crofters' Commission. The Commission consisted of three members having the full power upon application to determine the statutory rights of landlords and tenants to which the Act applied. The task of determining the parishes which conformed to the definition of the Act was left to the Commission. It was decided that 151 of the 163 parishes in the crofting counties were crofting parishes, and the Commission began it work in October 1886. During the Commission's long existence from 1886 to 1911, when it was superseded by the Land Court which will be discussed later, the Commissioners traveled throughout almost every part of the mainland and the islands where there were crofting tenants. Hearings were held, and the crofts (farms operated by crofting tenants) inspected in connection with the applications of landlords and tenants for adjustments of their statutory rights. The outstanding features of the work of the Crofters' Commission were its adjustments of rent and arrears of rent, and its enlargements of crofters' farms. The adjustments of rent made by the Commission were binding, and could not be changed for seven years. Arrears of rent in these counties were very common, and about two-thirds of them were cancelled. This appears to be a large amount, but, as the Commission pointed out, the arrears consisted of the accumulations of generations, and in many cases they arose from unfair rent, and although they could be regarded on paper as assets, they were really irrecoverable.

In dealing with applications for enlargement of farms, the Commission worked under certain handicaps. Owing to the limitation of "available " land and funds, it did not have the power to enlarge crofts or to form new ones everywhere they were needed. The Commission repeatedly pointed out these limitations in its annual reports, and Parliament appointed a committee in 1892 to consider the question of land available for use as farms for the crofting tenants. The Committee reported that over a million and a half acres were suitable and could be made available for this purpose. As a result of its report an Act was enacted by Parliament in 1897, establishing a special organization, the Congested Districts Board, with power and funds to assist migration of tenants from the congested sections to new farms established by the Board.

The most important improvements which resulted from the Crofters' Act were the marked increase in the stability of occupancy and security of tenure and the adjustments of excessive rent and arrears of rent. The diminution of rent gave direct relief to the population of these districts, where cash income available for the payment of rent was not large. There was a marked improvement in the housing and the social conditions of the crofters. The Crofters' Act was generally successful in spite of its obvious failure to correct completely the land tenure problems of the Highlands.

The Congested Districts (Scotland) Act, 1897

This Act provided for a board which was composed of the Secretary of State, the Under-Secretary of State, the chairmen of three of the administrative bodies concerned with the districts in which it was to operate, the Crofters' Commission, and others designated by Parliament. It was empowered to aid in the development of agriculture, fishing and home industries, to facilitate migration from the over-populated districts, to establish new farms, and to provide public works. For these purposes an annual sum of 35,000 pounds was made available. The sphere of their operations, as defined by them, extended to 65 of the 151 crofting parishes. The operations of the Board continued over a period of more than fourteen years. The policies of effecting new land holdings were carried out by the purchase of estates and by cooperation with landlords. Six estates, with an area of 84,000 acres, were purchased at a total cost of 129,000 pounds. These were divided into farms of varying sizes and sold to tenants at the purchase price, plus the cost of transfer. By cooperating with landlords many large farms were sub-divided. Altogether they assisted in providing 640 new farms, 1,100 existing farms were enlarged, making a total of 1,740 cases, which represents over 2 percent of all the farms in Scotland, and more than 5 percent of all the farms in the districts in which the Board operated. Relatively large sums were also expended by the Board on public works of various kinds in the congested districts. The assistance thus given usually took the form of advancing three-fourths of the cost of such works to the local authority, which executed the work and provided the subsequent upkeep. In promoting agriculture, particularly among the families which it resettled or rehabilitated, the Board worked mainly to improve the livestock, as the Western Highlands and Islands were more suited to pastoral farming than to the growing of crops. Under these plans the Board purchased 697 bulls and loaned them to the committees in charge of common grazing on condition that they be properly cared for and wintered. Two thousand

three hundred rams, the property of the Board, were also loaned in the same way, and a number of pony stallions was provided. Improved seeds and eggs, for hatching, were made available at a small charge. Further encouragement was given by grants-in-aid to local agricultural shows.

The work of the Congested Districts Board was moderately successful. Its main function, that of effecting new tenurial arrangements, was limited by the funds made available, and by the necessity of purchasing the land. As a result of the policies of providing breeding stock, a marked improvement took place in the quality of the livestock in many of the congested districts.

The Small Landholders' (Scotland) Act, 1911

A partial solution of the problems of land tenure which were peculiar to the small tenant-operated farms in the Highlands was provided for by the Crofters' Holdings Acts and the Congested Districts Act. All of these Acts were limited in their scope by lack of authority and funds. They were, however, successful, and there was a popular demand for the extension, to the other districts, of the many benefits which tenant farmers enjoyed in the Highlands. As early as 1895, a bill was introduced in Parliament for the purpose of extending the Crofters' Acts, in an amended form, to such counties north of the Tay River which were not already included, and to the county of Bute, but it failed to pass. Other bills were introduced in successive years from 1906 to 1911 at which time the Small Landholders' Act became a law. This Bill was bitterly opposed by the Conservative Party at every stage in its procedure through the House of Commons and the House of Lords. The Liberal Party, however, persistently pushed the measure and succeeded in having it passed. The long struggle between 1906 and 1911 undoubtedly weakened many of the original provisions of the measure, but in order to pass the bill, the Liberal Party then in power had to accept the amendments to meet the objections of the Conservative Party. Despite these amendments, the Act, as passed in 1911, still remains the foundation of modern land tenure legislation in Scotland, and stands as a constant tribute to the enlightened interests of the Liberal Government for the Scottish tenant farmer.

The purposes of the Small Landholders' Act of 1911 were: (a) to extend the provisions of the Crofters' Holdings Acts and the Congested Districts Acts throughout Scotland; (b) to establish the Scottish Land Court; (c) to create the Board of Agriculture; and (d) to encourage the formation of small agricultural farms.

The restricting of the farms to which the Crofters' Acts applied, to those renting for 30 pounds or less, was liberalized under the Small Landholders' Act by increasing the limitation to 50 pounds, and also by making the Act apply to any farm which was not larger than 50 acres in size, regardless of the rent paid; except in the Island of Lewis, where these limitations were 30 pounds and 30 acres. (Farms thus defined are hereafter called "small farms.") Farms included under the Act were: (a) crofters' farms under the 1886 Act; (b) small farms anywhere in Scotland other than the crofts, on which the tenant provided the greater part of the improvements; (c) similar farms on which the greater part of the improvements was furnished by the landlord; and (d) new small farms constituted under the Act. The tenants whose farms were in classes (a), (b), and (d), were called "landholders", and those with farms in class (c) were known as "statutory small tenants." The operators of the farms in class (a) became landholders at the commencement of the Act; those in class (b), became landholders at the commencement of the Act, if their tenancy was a yearly one, while other farmers in this class became landholders at the expiration of their leases; those in class (c) became statutory small tenants at the commencement of the Act; and those in class (d) became landholders from the date of their registration as new holders.

The essential difference between the two classes of tenants - the landholders and the statutory small tenants - was in the matter of who furnished the buildings and fences. Those tenants who were termed landholders furnished all buildings and fences, while the landlords furnished only the land. In the case of the statutory small tenant, the land and the buildings and fences were furnished by the landlord. The landholder enjoyed greater freedom in the operation of his farm, he had a more secure tenure, and paid a lower rent than the statutory small tenant. Landholders were more numerous than statutory small tenants, and it appears that their relative importance will continue to increase.

The Land Court. The Land Court was established as the judicial tribunal for carrying out the provisions of the Act. The Court superseded the Crofters' Commission, which had been a land court in everything except name, and took its function of deciding differences between landlords and tenants on small farms. The powers and duties of the Court are more inclusive than were those of the Commission, and its authority extends throughout Scotland. It is a body corporate, with a common seal, and all of

its orders and determinations are accepted by other courts without further proof. The Court has full power and jurisdiction to determine all questions under the Crofters', Congested Districts, and Small Landholders' Acts, whether of law or of fact. No other court can review such determinations, except on questions of law where an appeal to the Court of Sessions may be permitted by the Land Court.

The Land Court is composed of five members appointed by the King. The member who is designated as the chairman of the Court has the same rank and tenure of office as a judge of the Court of Sessions. The other members hold office at the discretion of the Secretary of State for Scotland, subject to the approval of Parliament, and are chosen from expert agriculturists with wide experience as practical farmers and valuators.

The Act provides that the Court shall make its own rules of procedure, subject to the approval of the Secretary of State. Its rules of procedure in determining cases are much the same as those of other courts in Scotland. These rules provide that all applications to the Court for determination of cases arising out of relations between landlord and tenant, be made through the office of a sheriff-clerk. Application forms, which are prepared and issued by the Land Court, are obtained by the applicant from the sheriff-clerk in his district or county. There are over thirty application forms issued by the Court to be used in its various powers. When the sheriff-clerk receives an application and is satisfied that it is in the proper form, he notifies the respondent and transmits the application to the Principal Clerk of the Land Court. The time and place for the hearing of the case is announced by the Court. The Court can summon any necessary witness, and require the production of necessary documents. Any witness, summoned by the Court and failing to appear may be found liable for payment of the expenses occasioned by any adjournment which his failure to appear renders necessary, and may be found guilty of contempt of Court.

The headquarters of the Court are in Edinburgh, but most of the work is done locally by divisions, one member and an assessor being a duly constituted division. Each division makes periodic circuits through particular areas of the country, trying cases, inspecting farms, and issuing decisions on cases heard.

During its first year of operation, the Court made many important decisions in interpreting the Small Landholders' Act. Many

of the cases arose because of a lack of understanding of the Act, but of more importance were those of intentional misinterpretation. The popularity of the Court was not great among the owners of land. Many applications were filed with a view toward limiting the scope of the Act by various interpretations of the clause, "either wholly agricultural or wholly pastoral, partly agricultural and as to the rest pastoral." One applicant would have excluded all farms with buildings on them, contending that the farms must be used only for agriculture or pasture. The Court, however, ruled that the purpose of the Act was to benefit the small agricultural tenant, and that it was improbable that Parliament intended to exclude the majority of these persons in whose interests the Act was passed.

The rights of the landholder and the statutory small tenant are somewhat different under the Act. As already pointed out, the chief difference between these two classes of small agricultural tenants is that the landholder has provided the buildings on his farm, whereas the statutory small tenant has had his buildings provided by his landlord. The landholder who applies to the Court to have his rent adjusted for the first time must prove that he belongs to that class of tenants. In ascertaining the amount of rent which a landholder should pay, the value of the buildings and improvements made by the tenant is excluded. The rent thus set by the Court, which is called the "first fair rent", is binding on the parties concerned, and cannot be altered for seven years, at which time the farm can be, upon proper application to the Court, revalued and the rent adjusted. Security of tenure is guaranteed the landholder, and under no condition can his tenancy be terminated without his consent or without an order from the Land Court. If a landlord has an objection to the tenant, he must apply to the Court and prove that the tenant is causing deterioration of the farm, is not cultivating it according to the rules of good husbandry, or that he has some other reasonable cause for removal of the tenant. The landholder on moving or being removed from his farm is entitled to receive just compensation for the buildings and improvements, including increases in soil fertility, made by him on the farm. The amount of compensation is determined by the Land Court as the fair value of the improvements to an incoming tenant. The improvements for which compensation is payable are not limited except that they must add to the value of the farm; the determination of value is subject entirely to the discretion of the Court. Another right of which the landholder has availed himself is that of assigning his farm to someone else in case he is not able, for any reason, to cultivate the farm.

It is provided under the Act that statutory small tenants may apply to the Court for a determination of what is called an "equitable rent." The rent on their farms is based upon the value of the land and buildings, but improvements made by the tenants are not taken into consideration. The tenants of this class can apply to the Court for revaluations and rent adjustments at the end of their leases. They also are granted security or what is called by the Act "fixity of tenure." A landlord must prove reasonable grounds for objecting to the tenant when he does not desire to renew the lease; otherwise the tenant is entitled to a renewal. Claims for compensation are made by him, and settled by arbitration, as provided under the Agricultural Holdings Acts. A tenant of this class has, however, the right to have his farm kept in good repair by his landlord. The Land Court does not have the direct power to compel a landlord to keep the house and other buildings in good condition, but the remedy provided by the Act is sufficient. If the landlord refuses to make the necessary repairs and improvements, the tenant can apply to the Land Court and be declared a landholder and have "fair rent" fixed, which would be considerably less than the "equitable rent" that he has been paying. The landlord is, however, relieved of all future obligations to provide or maintain the buildings and equipment, after his tenant has been declared a landholder.

Compensation to landlords for deterioration caused by tenants is provided for under the Act, and the amount is determinable by the Land Court. However, compensation for disturbance, either to the landlord or to the tenant, is not recognized by the Small Landholders' Acts. Both the custom of the country and the statutory security of tenure granted by Acts made this unnecessary.

When the Land Court assumed its duties on April 1, 1912, it has 634 cases left over from the Crofters' Commission, and during the first year of its operation, 1,808 new applications were received. Of these about five-sixths were from the crofting counties. This is explained by the fact that the larger number of landholders are found in these counties, and also by the crofters' having been familiar for twenty-five years with the privileges granted by the Crofters' Act ,so that they immediately availed themselves of the extended rights conferred by the Small Landholders' Act.

From the beginning of its operation, in 1911, through 1933, the Court adjusted rent on 2,822 landholders' farms. (Table 4). The existing rents on these farms were reduced, on the average,

about one-fourth, and many were still further reduced when they were revalued at the end of the required seven year period. In dealing with arrears of rent on landholders' farms, the Court canceled over half of them and ordered the remainder to be paid. In adjusting statutory small tenants' rights, the Court reduced rent nearly one-fifth in the 1,287 cases with which it dealt. (Table 4). About one-tenth of these cases again came to the Court to be revalued at the end of the lease, and the rents were slightly increased.

A large and important part of the work of the Land Court has been in connection with the regulation of tenants' rights to security of tenure. Compensation for improvements is one of the major means whereby the feeling of security is increased. Adjustments of compensation by the Court, however, did not form an important part of the cases handled until after 1919. From 1914 to 1933 the Court awarded compensation to 938 applicants, who claimed an average of 284 pounds and were awarded an average of 179 pounds. (Table 5). This does not include data for 1921 and 1922.

Table 4 - Rent Adjustments Determined by the Scottish Land Court 1/

Year	First Fair Rents 2/			First Equitable Rents 3/		
	Number of Cases	Old rents in pounds 4/	Adjusted rents 4/ in pounds	Number of Cases	Old rents in pounds 4/	Adjusted rents 4/ in pounds
1912	256	2,227	1,568	89	1,582	1,180
1913	523	5,398	3,515	170	3,307	2,447
1914	388	3,271	2,374	271	6,131	4,828
1915	430	3,695	2,748	243	5,248	4,194
1916	139	1,558	1,214	112	2,383	1,944
1917	160	1,216	1,011	45	1,127	922
1918	76	625	538	56	1,556	1,352
1919	170	2,050	1,842	75	1,483	1,435
1920	236	1,669	1,563	59	1,013	1,036
1921-22 5/	125	1,149	1,064	52	1,181	1,205
1923	41	504	442	15	495	463
1924	48	386	359	14	367	334
1925	30	273	229	12	216	190
1926	57	406	384	6	178	169
1927	23	136	121	8	124	105
1928	21	200	172	13	318	290
1929	19	139	102	7	252	230
1930	21	280	235	8	176	145
1931	19	135	116	11	260	210
1932	17	173	161	14	395	367
1933	23	178	145	7	178	151
Total	2,822	25,668	19,903	1,287	27,970	23,197

1/ Annual Reports of the Scottish Land Court, Edinburgh, Scotland.

2/ Fair rents adjusted for the first time by the Land Court for a landholder and based only upon the value of the land.

3/ Equitable rents adjusted for the first time by the Land Court for a statutory small tenant and based upon the value of the land and buildings.

4/ The power of exchange of the pound sterling during the major part of this period was about $4.8666; the present power of exchange is approximately $5.00.

5/ The annual reports for 1921 and 1922 did not contain these data. They were calculated from a summary of the activities of the Court which was made in 1933.

Table 5 - Compensation Adjustments Determined by the Scottish Land Court 1/

Year	Number of Cases	Amount Claimed in pounds 2/	Amount Awarded in pounds 2/
1915..	28	3,661	1,720
1916..	14	2,519	1,385
1917..	9	1,527	833
1918..	13	2,260	1,136
1919..	14	3,733	1,933
1920..	45	11,163	6,015
1921..	32	3/	5,726
1922..	3/	3/	3/
1923..	43	6,284	4,529
1924..	61	15,360	7,719
1925..	81	21,389	12,199
1926..	61	13,514	7,140
1927..	52	8,764	7,093
1928..	64	23,394	12,257
1929..	91	23,562	17,570
1930..	100	32,976	25,430
1931	96	32,373	22,782
1932..	91	32,103	19,612
1933..	75	31,468	18,299
Total	970	266,050	173,378

1/ Annual reports of the Scottish Land Court, Edinburgh, Scotland. These data represent compensation for improvements which were effected on small farms under the jurisdiction of the Land Court. They do not include any compensation claimed under the Agricultural Holdings Acts.

2/ The power of exchange of the pound sterling during the major part of this period was about $4.8666; the present power of exchange is approximately $5.00.

3/ Not available.

Applications from the Department of Agriculture for orders to compel landowners to turn their holdings into small farms is another important part of the work of the Land Court. In exercising its compulsory powers of sub-dividing large holdings, the Court created 1,157 new farms and affected 341 enlargements of existing farms. In addition, it brought into existence 3,760 new farms, and enlarged 1,428 existing farms by agreement with estate owners. The following text table is a summary of these types of cases handled by the Court:

Types of cases	Cases handled under compulsory power	Cases handled through agreements with owners
Adjustment of rent		
Landholders	2,822	---
Statutory small tenants	1,287	---
Compensation	970	---
Establishment of new farms	1,157	341
Enlargement of existing farms	3,760	1,428
Total cases	9,996	1,769

The Department of Agriculture: Although the Department of Agriculture was not organized until 1928, when it took over the duties and powers of the Board of Agriculture, which had been created in 1911, the following discussion will use the term "Department of Agriculture" to apply to both organizations. Since its inception, the Department has been engaged in a wide variety of activities similar to those of the Department of Agriculture in this country. Moreover, in 1911 the powers and duties of the Congested Districts Board were extended to apply throughout Scotland, as they had theretofore in the congested districts, and the functions of that organization were transferred to the Department of Agriculture. Furthermore, powers and duties were given the Department by the Act of 1911 for the formation and enlargement of small agricultural farms and the preservation of existing small farms.

The creation of new farms and enlargements of existing farms are carried out by the Department through cooperation with estate owners or by compulsory orders. A person desiring a new farm or an enlargement of an existing farm may apply to the Department, and if the latter is satisfied that there is sufficient demand for small farms, it selects suitable land available for the purpose, and then

notifies the landowner, who is usually an absentee landlord, that it is in the public interest for one or more new farms to be constituted on his land. Opportunity is given to all parties concerned for considering and adjusting the plans. If the Department and the landowner cannot arrive at an agreement, the plans can be carried out by compulsory order. Prior to 1919, compulsory orders for creating new farms or enlarging existing farms were made by the Department only through the Land Court; since then they have been made by the Department without reference to the Court.

The estate owner is entitled to compensation for damages caused by the formation of farms on his estate. Compensation is payable for the costs incurred by the landowner, and any damage done to the letting value of the estate. Prior to 1919 compensation could be claimed for injury to the selling value of the land or to the sporting rights. The Land Settlement Act of 1919 abolished compensation for injury to the selling value, and limited compensation for sporting-rights-injury to an amount by which the value of such rights might exceed the value of the land if it were put to its "full use." The Land Court has the power to determine what the value of the land would be if it were in "full use." The 1919 Act also changed the method of determining compensation for such claims from that of arbitration to that of hearing and decision by the Land Court.

The amalgamation of small, tenant-operated farms was prohibited by the Small Landholders' Act, and the Department was given power to enforce this provision. The landlord of a small tenant-operated farm must notify the Department of Agriculture when the farm becomes vacant or is about to become vacant, and without the consent of the Department it cannot be used for any purpose other than a small tenant-operated farm. The disposition of a vacant farm otherwise than in compliance with the Act can be declared null and void, and under such situations the Department is empowered to use it for a new farm or for enlargement of neighboring farms, without payment of compensation.

The work accomplished by the Department (to 1933) in effecting new land tenure arrangements for small tenant farmers includes the purchase of large amounts of land; the Department is now the largest landowner in Scotland. Including the 84,500 acres transferred from the Congested Districts Board in 1912, the Department owned 426,370 acres of land in 1933. Of this area 267,174 acres had been used in creating 1,889 small farms; in bringing about enlargements of 397 small farms; and in providing pasturage held in

common by groups of tenants. The settlements carried out on privately owned estates involved an area of 352,698 acres, on which were set up 1,584 new farms, and included 1,546 enlargements of existing farms. The total number of new farms and enlargements of existing farms, brought about by the Department of Agriculture during this 21-year period, was equivalent to about 7 percent of all farms in Scotland in 1933.

Agricultural Holdings (Scotland) Act, 1923

Laws regulating agricultural landlord and tenant relations on farms other than small farms, were expanded through a series of Agricultural Holdings Acts from 1883 to 1921. The repeals and amendments made by each successive Act caused a great deal of confusion and misunderstanding. Parliament was long urged to unite all of the Acts into one which would state clearly and concisely the many rights and duties of landlords and tenants. In answer to this need the Agricultural Holdings Act of 1923 was passed. This Act, as amended in 1931, is the principal act governing the rights of tenants who do not come under the provisions of the Small Landholders' Acts. The Act applies to all land which is let to a tenant for a year or more, and is used for agriculture, pasture, or market gardens. The chief object of the Act is to provide compensation for improvement, deterioration, and disturbance.

Under the Act a tenant is entitled to receive compensation for a specified schedule of unexhausted improvements on quitting his farm. The amount of compensation is based upon the value of the improvement to an incoming tenant as agreed upon by the landlord and tenant. In case they cannot agree, the claim is referred either to an arbiter, or, since 1931, to the Land Court.

The schedule of improvements for which compensation is payable is divided into three parts according to the nature of the improvements, and to the restrictions which are placed upon the tenant. The first part of the schedule includes the more permanent and more expensive of the improvements which are generally made by Scottish farmers, and it requires that the tenant obtain the written consent of the landlord before he begins the improvement. The second part includes those improvements which are less expensive and less permanent than those in the first part of the schedule, and it requires that the tenant give the landlord a written notice of his intention to effect the improvement. The landlord can, if he so desires, effect the improvement, but if he has not begun it within

a specified time, the tenant may then carry out his intention. The third part includes improvements involving a large amount of labor in relation to the amount of capital which is required, and it provides that the tenant can effect them without the consent of or notice to the landlord. A comparison of this schedule with the corresponding schedule in the 1883 Act reveals two significant facts: first, a much wider range of improvement is included in each part of the schedule than was included in the 1883 schedule; and second, many of the improvements which were included in the first part of the earlier schedule are now included in the second part of the present schedule, and so on.

A high degree of stability of occupancy and security of tenure is assured through granting the tenant the right to claim compensation for disturbance, and through requiring the landlord to renew the lease of the tenant unless: (1) the tenant fails to pay his rent; (2) the tenant fails to cultivate the farm according to the rules of good husbandry; (3) a breach of contract occurs which cannot be easily remedied. If the landlord, without reasonable cause, notifies his tenant to move at the end of his lease he must pay compensation for disturbance. The compensation allowed is a very substantial sum; usually it is equal to one year's rent or, if the tenant can prove the expenses are greater, two years' rent may be allowed. The compensation provision also insures the tenant against an unfair increase in rent, by allowing him to claim compensation for disturbance when the landlord attempts to raise the rent and refuses to refer the matter to arbitration. A landlord can obtain compensation from the tenant for deterioration in the value of the farm when it is due to the failure of the tenant to cultivate according to the rules of good husbandry. Such compensation is ascertained by arbitration, or, since 1931, by the Land Court, at the termination of the tenancy.

Arbitration under the Agricultural Holdings Acts is referred to a single arbiter or to the Land Court, except in the valuation of stock and crops transferred to the landlord or to the incoming tenant, in which case it is referred to two arbiters and an oversman to the Land Court. The arbiter or arbiters are agreed upon by the parties concerned, or they are appointed by the Department of Agriculture from a panel of arbiters selected by the Court of Sessions. The procedure of arbitration is left largely to the arbiter, and is not necessarily formal. It is usually conducted by hearing the parties concerned and by inspecting the farm. The decisions of the arbiter are final except on questions of law, which may be appealed to the Sheriffs Court and the Court of Sessions. The award must

be made by the arbiter within twenty-eight days, and includes the expenses of the arbitration, which is divided between the parties as determined by the arbiter. In cases of award of money ,the date of payment is set and must be paid within one month after that date, and is enforceable in the same manner as any other debt.

SUMMARY

The clan system of land tenure in the Lowlands of Scotland was completely displaced by feudalistic tenure during the twelfth century. It survived, in the Highlands in an attentuated form until the eighteenth century. Both the feudalistic tenure system and the modified clan system were displaced by an unregulated, individualistic system of tenancy under which the soil resources and the rural tenantry were seriously exploited. The leaders in Parliament and the townspeople soon realized that a permanently productive agriculture and a virile farm population were essential to the best interests of the country as a whole, and that such could not be established and maintained under the existing system. Therefore, beginning in 1880, a series of Parliamentary acts designed to correct the many evils which had grown up under the self-destructive policy of laissez-faire were passed.

The first approach was to diminish the right of the landlord to seize the tenant's property for the payment of rent, and to give the tenant permission to kill game and protect his crops. Then Parliament, in 1883, passed a far-reaching agricultural landlord-tenant statute. This legislation, the Agricultural Holdings Act, provided for compensation to an outgoing tenant for improvements which he had effected upon the landlord's property, and for a system of arbitration to facilitate the solution of differences between landlords and tenants. It was amended from time to time until it also assured the tenant a relatively high degree of stability of occupancy and security of tenure. This was accomplished by providing for compensation for disturbance in case the tenant was requested to vacate the property without sufficient reason. The landlord was also protected by a provision in the law compensating him for deterioration caused by the tenant. The legal machinery necessary for the proper execution of the provisions of these Acts was provided.

The Agricultural Holdings Acts were designed to deal with the general problem of tenancy. There was, however, a large number of tenants, who operated small farms in the Highlands, whose problems were distinct enough to warrant special consideration. The Crofters' Holdings Act of 1886 was passed by Parliament to meet this need.

It provided for security of tenure, adjustments of rentals by a public authority, governmental assistance to worthy tenants who desired to become land owners, and means whereby farms of an uneconomical size could be enlarged. The powers and duties thus provided were expanded by the Congested Districts Act of 1897, extended to all of Scotland by the Small Landholders' Act of 1911, and subsequently amended to meet new needs as they arose. Parliament also established the Land Court and the Department of Agriculture, and vested in them the authority to carry out the provisions of these Acts.

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Part I

AGRICULTURAL LANDLORD-TENANT RELATIONS IN ENGLAND AND WALES

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AGRICULTURAL LANDLORD-TENANT RELATIONS IN
ENGLAND AND WALES

STATISTICAL SUPPLEMENT

Table 1 - Number of Landowners and Acreage Owned by Each Class in England and Wales, 1873 1/

Class of Owners	Number of Owners	Extent in Acres	Average Acreage 2/
Peers and Peeresses	400	5,728,979	14,322
Great Landowners	1,288	8,497,699	6,598
Squires	2,529	4,319,271	1,708
Greater Yeomen	9,585	4,782,627	499
Lesser Yeomen	24,412	4,144,272	170
Small Proprietors	217,049	3,931,806	18
Cottages	703,289	151,148	3/
Public Bodies	14,459		
The Crown, Barracks, Convict Prisons, Lighthouses, etc.		165,427	---
Religious, Educational, Philantrophic, etc.		947,655	---
Commercial and miscellaneous		330,466	---
Waste		1,524,624	---
Total	973,011	34,523,974	35

1/ Broderick, G. C. ENGLISH LAND AND ENGLISH LANDLORDS, p.187.
2/ Averages were computed.
3/ Approximately one-fifth of an acre.

Table 2 - Number and Percentage of Farms in England and Wales by Tenure 1/

Year	Total Number of Farms 2/	Farms Owned		Farms Rented		Farms Part Owned	
		Number	Per-centage	Number	Per-centage	Number	Per-centage
1887	481,8283/	64,588	13.5	393.047	82.5	18.991	4.0
1888	488,013	67,389	13.8	400.297	82.0	20,327	4.2
1889	492.387	66,385	13.5	405.859	82.4	20.143	4.1
1890	494.835	66,130	13.3	408.040	82.5	20,665	4.2
1891	494,926	68.923	13.9	404,630	81.8	21,373	4.3

Year	Total Number of Farms 2/	Farms owned and Mainly Owned		Farms Rented and Mainly Rented	
		Number	Percentage	Number	Percentage
1908	430,081	54.869	12.8	375,212	87.2
1909	430.812	55,920	13.0	374,892	87.0
1910	431,674	55.433	12 9	376,241	87.1
1911	435,308	54,176	12.5	381,132	87.5
1912	435,886	50,972	11.7	384,914	88.3
1913	435,677	48,760	11.2	386,917	88.8
1914	435,124	49.204	11.3	385.920	88.7
1919	416,668	48,665	11.7	368,003	88.3
1920	417,991	57,234	13.7	360,757	86.3
1921	420,133	70.469	16.8	349,664	83.2
1922	414.715	62.680	15.1	352,035	84.9
1923	411,673	87.894	21.3	323,779	78.7
1924	409.383	94,236	23.0	315,147	77.0
1927	401,754	146,907	36.6	254.847	63.4

1/ Agricultural Statistics for Great Britain.
2/ A farm means a parcel of land one acre or larger used for farming purposes.
3/ Includes 5,202 farms not distributed according to tenure.

Table 3 - Number and Percentage of Acres in Farms in England and Wales by Tenure 1/

Year	Total Acreage Farmed 2/	Acreage Owned		Acreage Rented	
		Number	Percentage	Number	Percentage
1887	27,800,4333/	4,216,689	15.3	23,291,376	84.7
1888	27,805,885	4,283,519	15.4	23,522,366	84.6
1889	27,844,932	4,226,526	15.2	23,618,406	84.8
1890	27,872,335	4,225,848	15.2	23,646,487	84.8
1891	28,001,134	4,192,594	15.0	23,808,540	85.0
1892	27,784,007	4,090,839	14.7	23,693,168	85.3
1893	27,753,534	4,057,221	14.6	23,696,313	85.4
1894	27,737,672	4,034,969	14.5	23,702,703	85.5
1895	27,683,047	4,033,867	14.6	23,649,180	85.4
1896	27,665,625	4,043,621	14.6	23,622,004	85.4
1897	27,627,170	4,012,142	14.5	23,615,028	85.5
1898	27,584,264	3,906,659	14.2	23,677,605	85.8
1899	27,559,417	3,800,700	13.8	23,758,717	86.2
1900	27,538,130	3,725,988	13.5	23,812,142	86.5
1901	27,517,314	3,668,908	13.3	23,848,406	86.7
1902	27,490,790	3,604,668	13.1	23,886,122	86.9
1903	27,451,780	3,554,877	12.9	23,896,903	87.1
1904	27,428,972	3,521,095	12.8	23,907,877	87.2
1905	27,405,847	3,484,729	12.7	23,921,118	87.3
1906	27,393,716	3,413,472	12.5	23,980,244	87.5
1907	27,376,969	3,334,508	12.2	24,042,461	87.8
1908	27,347,913	3,333,828	12.2	24,014,085	87.8
1909	27,323,464	3,337,456	12.2	23,986,008	87.8
1910	27,292,588	3,329,015	12.2	23,963,573	87.8
1911	27,248,823	3,246,971	11.9	24,001,852	88.1
1912	27,174,690	2,954,491	10.9	24,220,199	89.1
1913	27,129,382	2,890,559	10.7	24,238,823	89.3
1914	27,114,004	2,961,979	10.9	24,152,025	89.1
1915	27,053,100	3,092,302	11.4	23,960,798	88.6
1916	27,074,084	3,085,099	11.4	23,988,985	88.6
1917	27,081,481	3,018,314	11.1	24,063,167	88.9
1918	26,987,512	3,161,584	11.7	23,825,928	88.3
1919	26,747,953	3,296,452	12.3	23,451,501	87.7
1920	26,507,011	4,102,556	15.5	22,404,455	84.5
1921	26,144,071	5,231,847	20.0	20,912,224	80.0
1922	26,025,793	4,639,615	17.8	21,386,178	82.2
1923	25,943,261	6,273,109	24.2	19,670,152	75.8
1924	25,876,797	6,574,044	25.4	19,302,752	74.6
1927	25,590,330	9,225,734	36.1	16,364,596	63.9
4/					

1/ Agricultural Statistics for Great Britain.
2/ Acreage in farms includes only crop and grass land.
3/ Includes 292,395 acres not distributed according to tenure.
4/ Total acreage farmed in 1934 was 25,030,494 acres.

Table 4 - Number and Percentage of Farms in England and Wales by Size and Tenure 1/

Year	Tenure and Percentage	Total Farms	Size Groups						
			1 - 4.9 (Acres)	5 - 19.9 (Acres)	20 - 49.9 (Acres)	50 - 99.9 (Acres)	100 - 149.9 (Acres)	150 - 299.9 Acres)	300 Acres and Over
1913	Owned	48,760	12,606	14,814	8,093	5,399	2,767	3,265	1,816
	Rented	386,917	79,696	107,303	69,934	53,888	29,071	34,328	12,697
	% Rented	88.8	86.3	87.9	89.6	90.9	91.3	91.3	87.5
1914	Owned	49,204	12,596	14,975	8,071	5,624	2,754	3,322	1,862
	Rented	385,920	78,974	106,723	70,383	53,890	29,106	34,293	12,551
	% Rented	88.7	86.2	87.7	89.7	90.5	91.3	91.2	87.1
1919	Owned	48,665	10,453	13,786	8,346	6,380	3,463	4,216	2,021
	Rented	368,003	70,740	99,628	69,615	54,129	28,895	33,142	11,854
	% Rented	88.3	87.1	87.8	89.3	89.5	89.3	88.7	85.4
1920	Owned	57,234	10,952	15,780	10,188	8,154	4,485	5,323	2,352
	Rented	360,757	69,785	98,737	69,354	52,543	27,813	31,385	11,140
	% Rented	86.3	86.4	86.2	87.2	86.6	86.1	85.5	82.6
1921	Owned	70,469	12,028	18,635	13,069	10,769	5,844	7,170	2,954
	Rented	349,664	69,189	97,524	67,898	50,232	26,176	28,652	9,993
	% Rented	83.2	85.2	83.9	83.9	82.3	81.7	80.0	77.2
1922	Owned	62,680	10,699	16,319	11,461	9,709	5,373	6,468	2,651
	Rented	352,035	68,665	97,682	68,704	50,967	26,501	29,244	10,272
	% Rented	84.9	86.5	85.7	85.7	84.0	83.1	81.9	79.5

1/ Agricultural Statistics for Great Britain.

Table 5 - Number of Farms in England and Wales by Size 1/

Year	Total Number of Farms	Size Groups						
		1 - 4.9 (Acres)	5 - 19.9 (Acres)	20 - 49.9 (Acres)	50 - 99.9 (Acres)	100 - 149.9 (Acres)	150-299.9 (Acres)	300 Acres and over
1913	435,677	92,302	122,117	78,027	59,287	31,838	37,593	14,513
1914	435,124	91,570	121,698	78,454	59,514	31,860	37,615	14,413
1915	433,353	90,643	120,616	78,430	59,657	32,045	37,635	14,327
1916	428,425	87,502	118,064	78,587	60,121	32,409	37,610	14,132
1917	425,718	84,264	116,004	78,288	60,665	32,621	37,778	14,098
1918	420,126	83,392	114,064	77,878	60,572	32,453	37,641	14,126
1919	416,668	81,193	113,414	77,961	60,509	32,358	37,358	13,875
1920	417,991	80,737	114,517	79,542	60,697	32,298	36,708	13,492
1921	420,133	81,217	116,159	80,967	61,001	32,020	35,822	12,947
1922	414,715	79,364	114,001	80,165	60,676	31,874	35,712	12,923
1923	411,673	77,674	113,049	79,865	60,796	31,844	35,565	12,880
1924	409,383	76,859	111,934	79,537	60,781	31,930	35,481	12,861
1925	405,708	75,283	110,385	79,119	60,931	31,875	35,411	12,704
1926	402,638	74,185	108,814	78,827	61,063	31,796	35,373	12,580
1927	401,754	74,331	107,843	78,654	61,317	31,946	35,121	12,542
1928	400,895	74,456	107,126	78,546	61,398	31,865	35,121	12,383
1929	399,247	74,183	105,950	78,195	61,699	31,897	35,052	12,271
1930	395,823	72,984	103,975	77,970	61,703	31,998	34,957	12,236
1931	391,941	71,204	102,339	77,374	61,951	32,002	34,925	12,146
1932	390,469	70,674	101,446	77,222	62,248	32,055	34,772	12,052
1933	388,433	69,864	100,591	76,901	62,380	32,183	34,644	11,870
1934	384,272	68,544	98,836	76,029	62,371	32,125	34,487	11,889

1/ Agricultural Statistics for Great Britain.

Table 6 - Compensation Values of Feeding Stuff Used in England and Wales 1/

Feeding Stuff	Compensation value for each ton of feed consumed before one crop has been sold or removed 2/		
	Shillings	Pence	Dollars 3/
Decorticated cotton cake	48	3	11.99
Undecorticated cotton cake (Egyptian)	28	11	7.19
Undecoricated cotton cake (Bombay)	26	6	6.59
Linseed cake	33	0	8.20
Linseed	26	0	6.46
Soya-bean cake	44	7	11.08
Palm-nut cake	16	10	4.18
Coco-nut cake	26	11	6.69
Earth-nut cake	47	8	11.85
Rape cake	35	2	8.74
Compound cakes, meals, etc.			
15 to 20 percent Albuminoids	23	4	5.80
20 to 25 percent Albuminiods	27	1	6.73
25 to 30 percent Albuminoids	30	10	7.66
30 percent Albumnoids	36	11	9.17
Beans	26	11	6.69
Peas	23	2	5.76
Wheat	12	8	3.15
Barley	11	9	2.92
Oats	13	0	3.23
Maize	11	1	2.75
Rice meal	12	1	3.00
Locust beans	10	6	2.61
Malt	12	11	3.21
Malt culms	30	9	7.64
Bran	25	6	6.34
Brewers' grains (dried)	20	9	5.16
Brewers' grains (wet)	5	2	1.28
Clover hay	18	4	4.56
Meadow hay	13	10	3.44
Wheat straw	5	5	1.35
Barley straw	5	8	1.41
Oat straw	6	4	1.57
Mangels	2	7	.64
Swedes	2	2	.54
Turnips	2	0	.50

1/ Davies, C. E. AGRICULTURAL HOLDINGS AND TENANT RIGHT, p. 303.

2/ The value after one crop has been grown or removed is one-half of the value shown here.

3/ Calculated on the basis of the power of exchange of the pound sterling for March 1936 as $4.97.

Table 7 - Compensation Values of Fertilizers Used in England and Wales 1/

Fertilizers	Proportion of original cost after removal of specified crops							
	On arable land			On grass land 2/				
	1st	2nd	3rd	1st	2nd	3rd	4th	5th
Superphosphate	2/3	1/3	1/6	2/3	1/3	1/6	.....	.....
Basic slag, Ground Phosphate	2/3	1/3	1/6	5/6	2/3	1/2	1/3	1/6
Bones (raw and steamed)	2/3	1/3	1/6	2/3	1/2	1/3	1/6	.....
Dissolved Bones	1/2	1/4	1/12	1/2	1/4	1/12	.....	.....
Bone Manures	2/5	1/5	.....	2/5	1/5	.....	.....	.....
Compound Manures not Containing Bone	1/3	1/6	.....	1/3	1/6	.....	.....	.....
Peruvian Guano	1/3	1/6	.....	1/3	1/6	.....	.....	.....
Fish Guano	1/3	1/6	.....	1/3	1/6	.....	.....	.....
Meat Meal	1/3	1/6	.....	1/3	1/6	.....	.....	.....
Shoddy and Wool Waste, Fur Waste, Hair, Hoofs, and Horns, Greaves, etc.	1/2	1/4	1/8	1/2	1/4	1/8	.....	.....
Manure Cakes	1/5	1/10	.....	1/5	1/10	.....	.....	.....
Dried Blood, Sulphate of Ammonia, Nitrate of Soda, Nitrate of Lime, Cyanamide	None			None				
Kainit and Potash Salts	1/2	1/4	.....	1/2	1/4	.....	.....	.....
Lime	The cost of 4 cwt. of pure lime, or 7 cwt. of carbonate lime (chalk) to be deducted per acre each year after application until the amount originally applied is exhausted. This is to be independent of the amount of pure lime or chalk applied.							

1/ Davies, C. E. AGRICULTURAL HOLDINGS AND TENANT RIGHT, p. 298.

2/ The Valuer must exercise his discretion as to the suitability of these manures when used upon grass land. When grass land is mown, this is equivalent to the "removal of a crop" and the values as set out for arable land would apply.

Table 8 - Improvements for Which Compensation is Payable in England and Wales According to the Agricultural Holdings Act of 1923 1/

First Schedule

Part I

IMPROVEMENTS TO WHICH CONSENT OF LANDLORD IS REQUIRED

(1) Erection, alteration, or enlargement of buildings.
(2) Formation of silos.
(3) Laying down of permanent pasture.
(4) Making and planting of osier beds.
(5) Making of water meadows or works of irrigation.
(6) Making of gardens.
(7) Making or improvements of roads or bridges.
(8) Making or improvement of watercourses, ponds, wells, or reservoirs, or of works for the application of water power or for supply of water for agricultural or domestic purposes.
(9) Making or removal of permanent fences.
(10) Planting of hops.
(11) Planting of orchards or fruit bushes.
(12) Protecting young fruit trees.
(13) Reclaiming of waste land.
(14) Warping or weiring of land.
(15) Embankments and sluices against floods.
(16) Erection of wirework in hop gardens.
(17) Provision of permanent sheep-dipping accomodation.
(18) In the case of arable land the removal of bracken, gorse, tree roots, boulders or other like obstructions to cultivation.

(N.B. -- This part is subject as to market gardens to the provisions of the Third Schedule.)

Part II

IMPROVEMENT IN RESPECT OF WHICH NOTICE TO LANDLORD IS REQUIRED

(19) Drainage.

1/ AGRICULTURAL HOLDINGS ACT, 1923.

Part III

IMPROVEMENTS IN RESPECT OF WHICH CONSENT OF OR NOTICE TO LANDLORD IS NOT REQUIRED

(20) Chalking of land.
(21) Clay-burning.
(22) Claying of land or spreading blaes upon land.
(23) Liming of land.
(24) Marling of land.
(25) Application to land of purchased artificial or other purchased manure.
(26) Consumption on the holding by cattle, sheep, or pigs, or by horses other than those regularly employed on the holding, of corn, cake, or other feeding stuff not produced on the holding.
(27) Consumption on the holding by cattle, sheep, or pigs, or by horses other than those regularly employed on the holding, of corn proved by satisfactory evidence to have been produced and consumed on the holding.
(28) Laying down temporary pasture with clover, grass, lucerne, sain-foin, or other seeds, sown more than two years prior to the termination of the tenancy in so far as the value of the temporary pasture on the holding at the time of quitting exceeds the value of the temporary pasture on the holding at the commencement of the tenancy for which the tenant did not pay compensation.
(29) Repairs to buildings, being buildings necessary for the proper cultivation or working of the holding, other than repairs which the tenant is himself under an obligation to exceute:

Provided that the tenant, before beginning to execute any such repairs, shall give to the landlord notice in writing of his intention, together with particulars of such repairs, and shall not execute the repairs unless the landlord fails to execute them within a reasonable time after receiving such notice.

Third Schedule

IMPROVEMENTS SUBJECT TO SPECIAL PROVISIONS IN THE CASE OF MARKET GARDENS

(1) Planting of standard or other fruit trees permanently set out.
(2) Planting of fruit bushes permanently set out.
(3) Planting of strawberry plants.
(4) Planting of asparagus, rhubarb, and other vegetable crops which continue productive for two or more years.
(5) Erection or enlargement of buildings for the purpose of the trade or business of a market gardener.

PART II

SCOTLAND'S ACTIVITY IN IMPROVING FARM TENANCY

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